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ALTERNATIVES FOR NATURAL RESOURCE MANAGEMENT

HEARING
BEFORE THE
SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS
OF THE
COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE
NINETY-SEVENTH CONGRESS
SECOND SESSION

JUNE 1, 1982
GRAND RAPIDS, MINN.

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ALTERNATIVES FOR NATURAL RESOURCE MANAGEMENT

TUESDAY, JUNE 1, 1982

U.S. SENATE,
SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Grand Rapids, Minn.

The subcommittee met at 2:12 p.m. in Grand Rapids, Minn., at the Holiday Inn, 2301 Pokegama Avenue South, Hon. Dave Durenberger (chairman of the subcommittee) presiding.

Present: Senator Durenberger.

Review panel: Roger Moe, Minnesota State Senator and Ray Black, chairman, Metropolitan River Corridor Study.

Senator DURENBERGER. The hearing will come to order. Let me just start with some very quick introductions.

The person on my left is Mr. Ray Black. He is a businessman from Minneapolis and a resident here most of the summer. One of the reasons he is here today is because he has had a longstanding interest in the intergovernmental side of natural resources preservation. He was selected, in the last couple of years, to head up something that northern Minnesota has always said they should have in the Twin Cities—that is, a counterpart to the Mississippi Headwaters Board. This one is called the Metropolitan Rivers Study Committee. It is an effort, authorized by the Congress 2 years ago, on behalf of the citizens and the State and local governments to work with the Federal Government in preserving, in this case, the Three Rivers Corridor in the Twin Cities: The Mississippi, Minnesota, and St. Croix Rivers.

We may also be joined by the majority leader of the State senate, Roger Moe. He will be with us part of the afternoon.

Let me also introduce to you the mayor of Grand Rapids, Mr. Vern Sackett, for a word of welcome. Vern?

Mr. SACKETT. Thank you, Senator. I thought maybe I was going to be lucky and you were going to forget me for a moment.

Senator DURENBERGER. I was going to forget you but somebody sent me a note: "Remember the mayor." [Laughter.]

WELCOMING STATEMENT OF VERN SACKETT, MAYOR, GRAND RAPIDS, MINN.

Mr. SACKETT. Ray asked me if I would appear and give a little welcome. I want to welcome all the people to the city of Grand Rapids. We are proud to have you here. We want to thank you for having the hearing in Grand Rapids so all the people can come and be heard. We appreciate it.

I want to thank the crew that put on the meal. I think they did a wonderful job.

I think it was a good experience for some of our people, Senator, that you and some of the others had the canoe trip this morning. We have lots of rivers and lakes in our area. We welcome you to visit any of our resorts, go talk to the people and see what we have here. We are proud of our area.

We thank you for being here and we hope you have a good meeting. Thank you very much.

Senator DURENBERGER. Thank you, Vern.

[Applause.]

Senator DURENBERGER. Vern is getting to be my favorite mayor because he gives the shortest welcoming speeches of any mayor. That's three times in a row now, or at least twice in a row.

Roger, welcome.

Mr. MOE. Thank you, Senator.

OPENING STATEMENT OF SENATOR DURENBERGER

Senator DURENBERGER. Let me start with an opening statement which will set the framework for the purpose of the hearing today. Then we will get into three panels of experts.

I was looking back over some of the material associated with the Headwaters Board activity, and noticed that some of us were here with a much more famous person, Bud Grant, celebrating the signing of the joint venture right in this very room. I guess that was about 1½ years ago.

At that time Jim Oberstar and I talked about how we, in effect, could bring this experience to the rest of the country. So I started out by putting a long statement in the Congressional Record.[1] At that time we included a promise that we would hold hearings up here as quickly as possible, rather than make you all come to Washington. Unfortunately, it has taken almost a year to get to this point, but here we are today.

This hearing on alternatives for natural resource management is part of a series of hearings that this subcommittee has been holding over the last year and a half ever since I became its chairman in January 1981. The purpose of these hearings—there now have been 28 or 29 of them—is to find better ways to provide public services through changing the role of Government in the provision of those services. Looking for better ways to do it.

We are holding this hearing in Grand Rapids for several reasons—one to which the mayor has already alluded. That is, the fact we all had a chance to get out on the river on a canoe trip today, together with the walleyed pike lunch. The opportunity to visit with all of you adds a very special dimension you can't get out of a Washington hearing.

In addition, of course, it's the people who are living on the Mississippi who are the first to know and appreciate it as a natural resource. It is they, through their local representatives, who have designed in the Headwaters Board an alternative to natural resource management that is nationally significant.

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[1] See p. 85.

It is also especially significant in that the hearing is held on June 1, the first Minnesota Rivers Month proclaimed by Gov. Al Quie. Minnesota is known as the Land of Sky Blue Waters. It has 25,000 miles of rivers and streams, some of which are sky blue.

It is interesting that only 1,000 of those 25,000 miles are currently in protected status—142 miles of Minnesota's rivers are under the Federal Wild and Scenic Rivers System; 440 miles under the State Wild and Scenic Rivers System; 118 miles of the Minnesota River in something called Project Riverbend, which is also a local alternative to State management; and 400 miles under the stewardship of the Upper Mississippi Headwaters Board—the program we are here to discuss today.

This field hearing focuses on a unique alternative to Federal management of the initial 400 miles of the Mississippi River. This particular reach was designated as a "study river" system for possible inclusion in the National Wild and Scenic Rivers System in 1974. All the rest of that is history to you people. The formation of the Upper Mississippi Headwaters Board as an alternative to Federal designation has been well documented by a variety of sources, especially the Grand Rapids Herald Review, which has done an excellent job on an issue of national significance and local importance.

What has happened here has since achieved national attention in other ways. Testimony regarding the Headquarters Board has been presented before the Subcommittee on Public Lands and Reserved Waters of the Senate Energy and Natural Resources Committee. The National Association of Counties has been extremely impressed by this project. They endorsed the project and included it for discussion at the National Association of Counties' forum held in Alaska.

At this hearing, we will look at the Headwaters Board and its activities in some detail. We will examine the elements and the process in which local management of an area considered to be of national importance take place. We will assess the possibilities of its application elsewhere.

Local units of government have basic authority over land management. That includes land use planning, zoning, easements and acquisition—all the tools used by city and county governments for community development and for the well-being of people.

Because the basic revenue for local government services is provided by the property tax, the strongest incentives in the community policymaking process usually favor development. There are those who argue that this fact alone makes it difficult and perhaps impossible to insure wise, continuous, local stewardship of a natural resource, particularly one that traverses many, often competitive, political units. Therefore, Federal and State payments in lieu of taxes have provided supplemental revenues to local governments. In addition, tax incentives supplement private and public revenues in investment and resource protection.

I believe our discussion today is of particular importance because it provides us with an opportunity to examine what works. What Federal role facilitates State/local action for resource protection?

Where will funding be found for necessary acquisition and management expenses? What additional Federal and State legislation is needed? What other considerations will continue to come about as a result of the dialog that we have undertaken in the Intergovernmental Relations Subcommittee on the realinement of Federal, State, and local relationships.

Minnesota, as you well know, has experienced its share of natural resource controversies in the BWCA, the Voyageurs National Park and along the St. Croix River, for example. All this reflects the tension created by major changes in land use management and ownership whenever an area is placed under Federal control by the Congress. Delays and deficiencies in payments for land acquisition, loss in a portion of local tax base and multiple uses of the resource itself, all add to the Federal, State, and local tensions. If that is compounded by a perception that somehow "Washington always knows best and must protect the resource from the local citizens," then the scene is set for deteriorating Federal relationships with State and local governments, as well as with affected citizens. All too often these conflicts are resolved in the courts. Our American society is already over litigated. There are too many lawyers—I can say that now since I am not practicing anymore. That's no way to solve a problem, yet it seems to be our typical way out to relieve ourselves of this tension.

Although efforts were made to include all affected parties in the planning and decisions regarding this Federal program, often that involvement came after basic decisions had been made—such as the creation of a park or a wilderness. The bill that I introduced authorizing the Metropolitan River Corridor Study was designed to provide State and local leadership in a committee that included Federal agency involvement. The goal there was to provide maximum participation and direction from those agencies and individuals most directly affected by the recommendations of the committee to the Congress.

One point is abundantly clear to me from my work with the subcommittee: There is no single panacea; there are no simple answers; there is no one answer for every resource in every State or every community. We will, in our future, live with a great variety of answers if we want those answers to be effective in meeting the goals of our society. Greater State and local involvement with reduced Federal funding is not in and of itself an answer. At the present time, the area of natural resource and environmental management is a complex system which has, as one of its chief characters, important linkages and interdependence of all units of government.

At bottom today—I'll say this in conclusion—we must face up to the fact that Government's fiscal crisis is real. We are $1 trillion plus in debt at the national level. We are struggling, as you well know, to come up with a budget that everybody will be happy with if it's no more than a $100 billion deficit. The fiscal crisis we find ourselves in, in this country, is really not created by a lack of taxable income or taxable property in this country. The crisis is caused by the unwillingness of the income earner and the property owner to permit additional taxation until he or she sees a better deal for their money and more effective public service out of government at all levels. We are here today to determine whether you found that better deal.

[Senator Durenberger's prepared statement follows:]

Prepared Statement of Senator Durenberger

This hearing on alternatives for natural resource management is part of a series of subcommittee hearings designed to find better ways to provide public service through changing the role of Government. It is being held in Grand Rapids for several reasons. Most important, there's nothing like getting out on the river. The canoe trip, walleyed pike shore lunch, and visiting with all of you adds a dimension you don't get from a Washington hearing room. In addition, it's people who live along the Mississippi River who have managed the headwaters of the Mississippi so that it is considered a major national resource. It is they, through local representatives, who desired the Headwaters Board as an alternative to natural resource management.

It's especially fitting that the hearing is on June 1, the first day of Minnesota Rivers Month proclaimed by Governor Al Quie. The State of Minnesota is nationally known for its "sky blue waters" which include 25,000 miles of rivers and streams. It is interesting that only 1,000 miles are in a protected status: 142 miles of Minnesota rivers are protected under the Federal Wild and Scenic Rivers System; 440 miles under the State Wild and Scenic Rivers System; 118 miles of the Minnesota River are in project river bend, a local alternative to State management; and 400 miles are under the stewardship of the Upper Mississippi Headwaters Board—the program we will discuss today.

This field hearing focuses on a unique alternative to Federal management of the first 400 miles of the Mississippi River, long recognized nationally and locally as a section of the Mississippi whose beauty and natural character are deserving of protection and preservation. This reach was designated a "study river" for possible inclusion in the National Wild and Scenic Rivers System in 1974. The rest is history. The formation of the Upper Mississippi Headwaters Board as an alternative to Federal designation has been well documented both by the Grand Rapids Herald-Review and other major papers and media throughout the State. I first brought this opportunity to the attention of my colleagues in a speech to the U.S. Senate on December 11, 1980.

What has happened here has since achieved other national attention. Testimony regarding the Headwaters Board has been presented before the Public Lands and Reserved Water Subcommittee of the Senate Energy and Natural Resources Committee. The National Association of Counties has endorsed the project and included it for discussion in a National Association of Counties' forum held in Alaska. Today, this hearing will look at the Headwaters Board in some detail. We will examine the elements and process by which local management of an area considered of national importance take place, and assess the possibilities of its application elsewhere.

Local units of government have basic authority over land management. Land use planning, zoning, easements, acquisition are the tools used by city and county governments for community development and well-being. Because the basic revenue for local government services is provided by the property tax, the strongest incentives usually favor development.

There are those who argue that this fact alone makes it difficult to insure wise, continuous stewardship of a resource, particularly one that traverses many political units and whose resources are becoming increasingly more economically valuable. Therefore, Federal and State payments in lieu of taxes have provided supplemental revenues to local governments. Also, certain tax incentives supplement private and public revenues.

I believe our discussion today is of great importance. It provides an opportunity to examine carefully what works—what Federal role facilitates local/State action for resource protection—where funding will be found for necessary acquisition and management expense—what additional Federal and State legislation is needed—and other considerations that continue the dialog I've undertaken in the Intergovernmental Relations Subcommittee on the realinement of Federal/State/local relationships.

The Intergovernmental Relations Subcommittee of the Senate Governmental Affairs Committee has been in the process of reviewing the impact of major Federal environmental programs on State and local governments. For example, among the programs reviewed are the Resource Conservation and Recovery Act and the Clean Air Act.

As I have reviewed Federal environmental regulatory programs, I have found that the current debate about shifting responsibilities to States is part of an extended pattern in Federal-State relations. The trend started with recognition at the State and local level that pollution problems needed to be translated into national goals and objectives, and that those goals could best be achieved by relying to some degree on States and localities for implementation and enforcement. The result has been a partnership characterized by tensions, conflicts, and duplications of efforts.

Unlike pollution control, protection of national resource areas considered of national importance has been essentially a Federal prerogative. National parks, refuges, wilderness areas, national monuments, and the National Wild and Scenic Rivers System are all controlled by the Federal Government. Bitter controversies with the local citizens and landowners have marked the past decade as major units were added to the Federal system.

Minnesota has experienced its share of controversies—the BWCA, Voyageurs—exemplified by Big Vic and Big Louie—disputes on the St. Croix, part of the Federal Wild and Scenic Rivers System, all reflect the tensions created by major changes in land use management and ownership when an area is placed under Federal control by the Congress.

Delays and deficiencies in payments for land acquisition, loss of a portion of the local tax base and the multiple use of the resource itself add to the Federal/State/local tensions. If that is compounded by a perception that somehow "Washington knows best and must protect the resource from the local citizens," the scene is set for deteriorating Federal relationships with State and local governments as well as with the affected citizens which all too often must be resolved in the courts—our society is already overlitigated—and there are too many lawyers.

Although efforts were made to include all affected parties in planning and decisions regarding the Federal program, often that involvement came after basic decisions had been made, such as the creation of a park or wilderness area. The bill I introduced authorizing the Metropolitan River Corridor Study was designed to provide State and local leadership in a committee which included Federal agency involvement. The goal is to insure maximum participation and direction from those agencies and individuals most directly affected by the recommendations of the committee to Congress.

One point is abundantly clear to me from my work with the subcommittee. There is no panacea or simple answer. No one answer for every resource, every State, or every community. We will, in our future, live with a great variety of answers if we want them to be effective in meeting the goals of our society. Greater State and local involvement with reduced Federal funding is not the answer. At the present time, the area of natural resource and environmental management is a complex system which has as one of its chief characters linkages and interdependence of the several units of government.

Adverse State and local reaction to new Federal initiatives in resource management necessitate a review of established programs. The new realities, including an anticipated Federal budget deficit for 1983 of over $100 billion and escalating State and local government fiscal problems necessitates that we look for new ways to achieve our national goals on resource protection and wise management.

At bottom, though, we must face up to the fact that government's fiscal crisis is not created by a lack of taxable income or property in this country. The crisis is caused by the unwillingness of the income earner or property owner to permit additional taxation until he or she sees a better deal—more real, effective public service out of government at all levels. We're here today to determine whether you've found that better deal.

Senator DURENBERGER. I'm pleased to see the excellent list of witnesses who have agreed to testify today. I expect this will be a most productive afternoon.

Congressman Jim Oberstar couldn't be with us. He is probably sharpening his pencil for the budget on Wednesday. If there has been a leader in the U.S. Congress in efforts to make some sense out of natural resource management over the years, it's been Jim Oberstar. Here representing Jim today, to make a presentation on his behalf, is a member of his staff, Gary Cerkvenik.

Gary, would you proceed with your statement?

OPENING STATEMENT OF HON. JAMES L. OBERSTAR, REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA, PRESENTED BY GARY CERKVENIK, STAFF MEMBER

Mr. **Cerkvenik**. Thank you, Senator.

First I'd like to express Mr. Oberstar's apologies to you and to the audience for being unable to attend today because of a commitment in Washington. I do, however, have his statement which I will read to the public.

Mr. Chairman, I appreciate the invitation to participate in today's hearing and the opportunity to have my statement included in the hearing record.

The activities of the Mississippi Headwaters Board are an appropriate subject for the subcommittee whose oversight responsibilities include the relationship between the Federal and local governments. The Mississippi Headwaters Board was formed following an attempt by the Federal Government to exercise control over the Upper Mississippi River in a manner which many of us felt was both premature and excessive. The attempted pre-emption of local management responsibilities for the river led to the creation of an organization and the development of a plan which may prove to be a model for similar efforts throughout the United States.

In the 95th Congress, 1977-78, the U.S. Department of the Interior sought to rush through the inclusion of the Upper Mississippi River in the Federal Wild and Scenic Rivers System. The House Interior Committee approved legislation making the designation and authorizing $16.5 million for land acquisition and $3.3 million for development of recreational sites along the river corridor. Because most of you participating in today's hearing are familiar with that legislation and the events surrounding the congressional consideration of it, I shall not provide a complete legislative history, only a summary.

The U.S. Department of the Interior had submitted its recommendation to Congress, having held only general public information meetings on the Federal Wild and Scenic Rivers System during its study of the suitability of the Upper Mississippi River for possible inclusion as a unit of that system. Neither the Interior Department nor the House Interior Committee held hearings on the actual proposal to designate the river. The people living along the river and the local units of government, most directly affected by the decision, had been given no official opportunity to comment on the proposal, to make suggestions, to raise questions, or state objections. The process was a violation of the relationship which should exist between the Government and the people, and between the Federal Government and the local governments.

On July 11, 1978, I went on the House floor and asked my colleagues to delay the designation of the Upper Mississippi until the Interior Department had consulted fully with the people and the governments of northern Minnesota on the development of a master plan. I asked the House to give the State and local governments an opportunity to fulfill the role that Congress intended them to have in the enactment of the Federal Wild and Scenic Rivers Act of 1968. During the debate on July 11, 1978, I told the House:

"The State and local governments have commendably enacted legislation to protect the river all the way up to its source."

Only weeks before the House considered the designation of the Upper Mississippi, the U.S. General Accounting Office—the watchdog agency of Congress—released a comprehensive study on the implementation of the Federal Wild and Scenic Rivers program by the National Park Service. GAO concluded that the administration of the program was contrary to the intent of Congress in enacting the Federal Wild and Scenic Rivers Act. Drawing upon the data and analysis in the GAO report, I told my colleagues that day:

> Instead of cooperating with State and county and local zoning authorities and reducing the cost of this program, the Federal Government has refused to cooperate with zoning officials and, instead, has gone in for massive fee simple acquisitions, which is far more costly than working with the States and the local people.

The House accepted my plea for restraint in the rush to designate the river. Since that time, the activities of the people of Minnesota and the State and local governments, and particularly the Headwaters Board, have justified the faith of Congress in voting to reject hasty designation of the Upper Mississippi River.

Congress originally intended the Federal Wild and Scenic Rivers System to be a cooperative venture among governments with State and local initiative to be the primary means of preservation. The response to the challenge, set by Congress in 1978, offers an example to the Nation of preservation efforts based on bipartisan cooperation between State and county governments, and between public and private sectors. Fortunately, this is an issue which has largely been above partisan politics in Minnesota.

The Headwaters Board quickly organized in 1979 and 1980 to develop a comprehensive plan for the protection and management of the river. The action of the eight counties was a commendable response to the congressional approval of my amendment to delay Federal designation. Those concerned about the Upper Mississippi should be pleased by the developments on the State and local levels since 1978.

The legislation, which would have included the Upper Mississippi in the Federal system, authorized over $16 million for land acquisition and $3.3 million for development. In view of the current administration's policy with respect to appropriations from the land and water conservation fund, obtaining the authorized funding would have been very difficult. We have experienced similar problems in the land and water conservation fund budget with respect to the Voyageurs National Park and the Boundary Waters Canoe Area. Federal designation of the river might well have meant federally imposed restrictions without the resources from the administration to fulfill the Federal responsibility.

The Mississippi River is a national resource. It is the major North-South inland transportation route for this country. "Old Man River" is a rich source of folklore and a fundamental part of the history of this country. It is a river of tremendous natural beauty. The issue has never been, "Do we protect the many values of the river," but "how best to do it." I am convinced that cooperation, rather than confrontation, between the Federal Government on the one hand, and the State and local governments and the people they represent on the other hand, is essential to sound management of the Nation's natural resources.

In early 1980, I endorsed the Headwaters Board concept because I believed that it had tremendous potential not only for the Upper Mississippi River, but also as an example of the benefits which could accrue from local initiatives in the management and preservation of the Nation's rivers. The record of the Headwaters Board over the last 3 years has justified that faith.

Thank you, Mr. Chairman.

Senator DURENBERGER. Thank you very much, Gary.

Roger, I want you to know I introduced you before you got here rather than after you got here because I wasn't sure when you would be able to arrive.

We now have the majority leader of the State senate with us, as well as Chairman Black. We are about ready to start our panels. The ground rules here will be the same as the ground rules in Washington for House and Senate hearings. The panel members will testify anywhere from 7 to 10 minutes.

I believe our first panel is a 10-minute panel each. Then they will respond to whatever questions that the three of us may wish to ask. Gary, if you want to stick around and ask questions, you are welcome to do so also.

Behind me is Lori Lindeblom. Usually in Washington we have a thing that looks like a traffic light. When you start talking, it's green. It turns amber when there is a minute to go, and then it turns red. That means you stop. Most people don't stop. [Laughter.] But it is very helpful. It is very helpful to all of us and everyone else. We don't have those lights here today so Lori is going to do things. When you have 2 minutes left, for those speaking, she will put her hand up like a boy scout. That means you have 2 minutes left. Then, if you get all involved and go over your 10 minutes—or your 7 minutes, as the case may be—she will ring a bell. Then everybody in the place will know that you are longwinded. Those are the ground rules.

On our first panel is Felix Kujawa. Felix will talk about interlocal cooperation, how the counties came together. Harold Zigmund will talk about the private sector involvement and Dick Compton will speak on the subject of citizen involvement.

Felix, we will go in the order of introduction so you will be the first.

TESTIMONY OF FELIX KUJAWA, VICE CHAIRMAN, MISSISSIPPI HEADWATERS BOARD, BUCKMAN, MINN.; HAROLD ZIGMUND, PRESIDENT, BLANDIN PAPER CO., AND FUNDRAISING CHAIRMAN, MISSISSIPPI HEADWATERS BOARD, GRAND RAPIDS, MINN.; DICK COMPTON, CHAIRMAN, CITIZENS ADVISORY COMMITTEE, MISSISSIPPI HEADWATERS BOARD, BENA, MINN.; AND GEORGE ROSSMAN, SECRETARY/TREASURER, MISSISSIPPI HEADWATERS ASSOCIATION

Mr. KUJAWA. My name is Felix Kujawa. I guess most of you know that. A lot of you know that I am still having trouble with that last name. Stick around, later in the evening it will come easier. I'm also commissioner of Morrison County and vice-chairman of the Mississippi Headwaters Board.

I couldn't help but hear that June is River Month, and this is the first day of River Month. Our Senator mentioned that he had the pleasure of canoeing down the river. After that—he didn't say it all—he had a brief meeting with a lot of county commissioners from all walks of life and businesses—big, small, and retired. We also have some county commissioners who are in the occupation of farming.

I couldn't help but overhear what he said—you all read the paper—about a million bucks being won in Las Vegas. So he asked one of these farmer commissioners, "What would you do if you won a million bucks?" The response was, "I'd keep farming till it was all gone." [Laughter.]

On behalf of the Mississippi Headwaters Board, I want to thank the subcommittee chairman, Senator Durenberger, for giving the board this opportunity to explain its unique alternative to Federal management of the Upper Mississippi River.

That's how we got started. There was a Federal plan started at the same time we started. I went through it. It was a preliminary plan. Some of the ideas in that book I didn't like; but then, on the other hand, when they saw our plan there were a few ideas they didn't like either. So, it's a horse apiece.

Based on the inquiries the board and others have received, we believe the Mississippi Headwaters Board is unique in the country. We further believe that there is increasing interest in applying creative non-Federal management alternatives to other areas throughout the country.

By way of background, the Mississippi Headwaters Board was initially formed in February 1980 under the Minnesota Joint Powers Act. It was a board composed of representatives from the eight counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing, and Morrison. The stated purpose of the board was to prepare an alternative plan for cooperative county management of the upper 400 miles of the Mississippi River.[1] The basic reason for the formation of the board was to provide a sound, workable alternative to the proposed Federal management of the river.

The member counties agreed that the Mississippi was worthy of special protection. This was never the issue. The issue was "Who could best do the job."

There was also the general feeling that the Federal proposal did not recognize the job the counties had done for years. This included a fine system of county parks, which you saw some today, recreational trails and responsible public land management through the appropriate county offices.

The board solicited private contributions from individuals, organizations, and corporations to match county funds to finance the preparation of its plan. The response from the private sector was outstanding. I want to point out that all the funds used initially to finance the preparation of a professional, comprehensive plan were provided by the counties and the private sector.[2] In addition, the counties contributed considerable staff work, research, and time to the project. Citizen members came to meetings every other week for a year. Most of these citizens paid their own expenses. The point I want to make is this: We, the counties, the citizens, and the private sector, not only wrote the plan, we also underwrote it.

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[1] See p. 86.

[2] See p. 97.

Work began on the Mississippi Headwaters Board plan in the spring of 1980. Two advisory committees were formed. The collective work of these committees were critical to the success of this project.

After many public meetings and hearings, the Mississippi Headwaters Board plan was completed in the fall of 1980. The National Park Service recognized the validity of this plan and approach. They negotiated with the board on the final details of an acceptable plan. The Interior Department approval was received.

Part of the final agreement was the understanding that the board would be permanent, and that we would seek State legislation and matching funds to insure the implementation of our plan. Specific Mississippi Headwaters Board legislation was passed. Funding was received by the Legislative Commission on Natural Resources [LCNR] during the 1981 legislative session.

The board is ahead of schedule in implementing its program as outlined for the legislature. The board has also received excellent cooperation from the DNR, the U.S. Forest Service, and other agencies.

The project has had occasional difficulties, but the board and the member counties have also had the expertise and the resolve to work out these difficulties. All in all, there have been precious few problems. It has worked remarkedly well.

Mr. Chairman, the board believes we have done a good job of recognizing and accounting for the broadest public interest in the river. We have made the tough decisions when they had to be made—and they do have to be made. If it is recognized that we have done a good job, it's because we've had the good help and good will of so many people in this effort.

Finally, Mr. Chairman, we believe that this approach can be successfully applied in other areas of the country. All that is needed is for State and local governments to have the resolve and resources to do the job. On behalf of the board, we would like to suggest that, if non-Federal alternatives are seriously pursued by this or some other administration, some grant mechansim should be established to encourage these units of government to undertake the job. Our own experience has shown it is possible for local governments to do the job for literally millions of dollars less than comparable Federal management, and to get it done with far less controversy.

I thank you.

Senator DURENBERGER. Thank you, Felix.

Our next witness will be the president of Blandin Paper Co., Mr. Harold Zigmund.

Mr. ZIGMUND. Thank you, Senator Durenberger. I'm Harold Zigmund. I'm president of the Blandin Paper Co. and its subsidiary, the Blandin Wood Products Co. I have been asked to be a member of this panel because of my role as fundraising chairman of the Mississippi Headwaters Board. I'm honored to have this opportunity to discuss how cooperation between local units of government has enabled the Upper Mississippi River to remain as a protected and valuable resource.

Blandin Paper Co. is an experienced natural resource manager. The headwaters area of the Mississippi River provides us with two prime raw materials to make paper and waferboard. That is wood and water. Unless we manage these relatively abundant yet valuable resources wisely, we could deplete them or pollute them to the extent they would no longer be useful as raw materials or for any other purpose. We believe our record of conservation speaks well for us.

Blandin Paper Co. has operated its paper mill on the Mississippi River since 1927. Before that, the Itasca Paper Co. and its predecessor, the Grand Rapids Power & Boom Co., harvested wood from nearby forests and harnessed the hydroelectric power of the river. With more than 55 years of experience in the papermaking industry, Blandin can proudly say it does not spoil the quality of the river it depends on.

Blandin Paper Co. depends on the river. We use approximately 20 to 25 million gallons of water from the river every day. While this is a significant amount, it only represents about 2.4 percent of the total flow of the river at Grand Rapids. Nine million of the twenty-five million gallons that we divert from the river are used in the process and later returned to the river after it passes through the primary and secondary treatment plants owned by the city of Grand Rapids. The balance of the water we use is either noncontact process cooling water or turbine condenser cooling water that is discharged directly into the river, adding less than 1 degree of heat to the overall river flow. The efficiency wastewater treatment process and the natural assimilative capacity of the river make our impact on the Mississippi River almost undetectable.

We also generate 1,875 kilowatts of power when the river is flowing at its full flow, which is 1,600 cubic feet or higher. Sixteen hundred cubic feet is about a thousand million gallons a day—I think that's a billion. Senator, we don't understand those numbers here. [Laughter.]

We also manage our own and other landowners' timberlands to help secure a portion of the wood fiber needs of our paper and waferboard companies. Most of the 135,000 acres we own are open to public hunting, fishing, and other recreational uses by virtue of the tax status allowed by the State of Minnesota. Just as the river we use for papermaking is also used by fishermen and boaters, and as a water supply for various communities along its course, our forests can be used by a variety of people for a variety of purposes. Coexistence and compatibility of uses have become hallmarks of Blandin's natural resource management philosophy.

It was with this orientation that I became interested in the development of efforts to protect the Upper Mississippi River from overdevelopment, misuse, and pollution. By late 1979 local public opinion, opposed to designating the upper stretches of the Mississippi as part of the Federal Wild and Scenic Rivers System, was sufficient to mobilize some concerted action by local residents. In what has become historical action, eight Minnesota counties signed a formal joint powers agreement in February 1980 to implement a management plan for that portion of the river which flowed through their boundaries.

In May 1980, I agreed to chair a fundraising committee for the purpose of assisting the Mississippi Headwaters Board in developing a management plan of sufficient scope and detail so the river would be well protected. This plan would also permit the uses that had occurred along its bank and on its course for the past century and those that could be allowed in the future. Individuals, associations, and corporations with any interest in local management of the river were solicited for financial assistance.

I should clarify that my portion of fundraising was devoted mainly to the corporations which were dependent upon the river, some seven or eight.

The funds that were raised helped pay for the planning and strategizing which eventually became the Mississippi Headwaters Board's final management plan. The National Park Service, recognizing that the eight counties were seriously committed to managing, using, and protecting the river, withdrew their proposal for Federal Wild and Scenic River designation. Four months later the Minnesota Legislature, responding to the grassroots mandate that local units of government and private enterprise should be given a chance to manage natural resources as they saw fit, proposed and funded the Mississippi Headwaters Board.

Cooperation by corporations, associations, and individuals with the eight counties of the Headwaters Board truly made the project successful. Not only did they cooperate by contributing a good portion of the money needed to finance the drafting of such an elaborate plan, but the private sector participated in the actual drafting of the plan itself. Even after each company and association had protected its interest, the Headwaters Board was able to draft a plan that was sound enough to convince the National Park Service, the environmental preservation people, and the Minnesota Legislature of its commitment to protect the river.

The Mississippi River Headwaters Board has been hailed as the largest joint powers agreement in the State's history. It is also, to quote a Legislative Commission on Natural Resources report, a "concept of protection of nationally significant resources through interlocal cooperation [which] is unique in the Nation and is still untested." In my opinion, however, it is a concept that could be easily translated to other resource management situations.

I have mentioned that wood and water are essential raw materials for papermaking. Nearly 55 percent of the commercial forest land in Minnesota is controlled by some form of government, while industry only owns 7 percent. We in the forest products industry of Minnesota have encouraged State and Federal forest managers and legislators to invest in the management of our forest resources with the expectation of reaping economic harvest within 40 to 60 years. Growing wood is a long-term business. We at Blandin realize that not only must public forest lands become more productive, but private forest lands as well. To that end we have signed forest management agreements with several mining companies and dozens of individual landowners in Minnesota. We have offered technical forestry advice to landowners in exchange for rights of first refusal to harvestable timber. The net result is an increase in the acreage being managed with an eye toward timber yield. Blandin benefits in the knowledge that ultimately more wood will be available. If we are assured of a wood supply in the future, we can in turn insure that we will be in existence 40 to 60 years from now.

The type of corporate responsibility I envision for Blandin Paper Co. encompasses more than managing timberlands cost effectively, or managing the Mississippi River to preserve water quality and aesthetics. These are important goals, but Blandin and other corporations must recognize—and most do—their responsibility to the human resources we depend on just as much as the natural resources I have just discussed. Investing corporate dollars in human service functions that address the needs of the communities in which our plants and mills are located is as important as our efforts to grow bigger trees faster or make better products more efficiently.

The Mississippi Headwaters Board exercise, in which I was eager and pleased to have a role, makes sense. Local people and private enterprise can respond to genuine concerns for resource management. In many cases, the expertise to manage these human or natural resources also is readily available at the local level. And, most of the time, the management of these resources could be done in a more cost-effective manner on a local, decentralized basis than it could be by transferring the responsibility to larger distant government organizations where theories about economies of scale become diluted with the realities of bureaucracy.

Again, I appreciate the opportunity to share my perspectives with you. Thank you for taking the time to meet with us in Grand Rapids.

Senator DURENBERGER. Harold, thank you very much for your insight.

Our third panelist is Dick Compton who is the chair of the citizens advisory committee of the Mississippi Headwaters Board.

Mr. COMPTON. My name is Dick Compton. I am the chairman of the citizens advisory committee to the Mississippi Headwaters Board. I thought I was nervous enough about testifying today until Senator Durenberger mentioned this would be a panel of experts. Now I am more nervous because I certainly don't consider myself an expert. However, I do represent a group of individuals whose work on behalf of this management plan would be considered expert.

I want to start my testimony today by first expressing my appreciation to the members of this committee, Senator Bob Lessard and many others, too numerous to mention, without whom I would not be speaking to you today as chairman of the Mississippi Headwaters Board Citizens Advisory Committee. It was your openness to questions, concerns, and suggestions from the people in this area, and the willingness to consider and eventually accept an alternative management plan for the Mississippi River that has allowed us to be here today.

In the beginning the argument was not whether or not the river should be protected, but rather, how it should be done and by whom.

After the formation of the eight counties under the Joint Powers Act, advisory committees were formed for the purpose of formulating a management plan that would protect the river and allow local control. There were two advisory committees formed: One, a technical advisory committee which consisted of zoning administrators and staff people from each of the eight counties; and, the other, a citizens advisory committee consisting of members of Minnesota DNR, the U.S. Forestry Service and citizen members from the eight counties representing government, agriculture, forestry, conservation, industry, recreation, and other interests to assist in developing this plan.

The two committees met separately and jointly on the average of once every 2 weeks for over a year. The process was a tough one as the membership of the committees represented many diverse views. The end result was a plan that I'm sure did not meet all of the objectives of any individual member or group but one which all members were able to support in the belief it would provide a workable management plan to protect our river. At this point, public hearings were scheduled in each of the eight counties to receive further input. Following this, a review and amendment process provided us with the management plan we now have. A point that was brought up at numerous times was local concerns and local issues. A point I am personally quite proud of as a member of the citizens advisory committee is that one of our members, Ford Robbins—at that time president of the North Star Chapter of the Sierra Club, a group whose interest certainly goes beyond the local to the State and even the national level—was able to support this plan during the legislative hearings in St. Paul prior to the passage of legislation permanently forming the MHB as the early governing body for protection of the river.

Is the hard part over? No. The real work on a plan like this is just now beginning. We now must prove our ability to follow the management plan that has been implemented. We must continue to rally support for the plan which becomes tougher after the party is over.

Will the plan work? Absolutely, because we have the commitment of many talented individuals who will continue to put forth a maximum effort to make sure it works.

It has been stated that "A law that gives maximum powers to a governmental agency is not necessarily one that is superior to one that relies on officials' ability to persuade individuals and corporations to restrict harmful development voluntarily." We believe in our goal of protecting the Upper Mississippi River. We strongly believe in the proposition that local governments can work together and act responsibly to take sound conservation measures.

Thank you.

Senator DURENBERGER. Dick, thank you very much. I'm going to add one person to this panel, George Rossman. George, would you come up?

You have been involved with the Mississippi Headwaters Association and from that viewpoint, what you have to say would relate most directly to what this panel will say rather than the other panels.

Mr. ROSSMAN. Thank you very much, Senator.

I have not prepared a formal statement, so I shall be brief.

The Mississippi Headwaters Association was incorporated in 1960. The Association was organized by citizens from many of the counties that are now parties to the Mississippi Headwaters Board. It was organized for one purpose only. That was to deal with the Army Corps of Engineers on the operation of the dams in the headwaters area to assure, insofar as possible, the best use of the waters which are found in this area and which are part of the Mississippi system.

Very early on, beginning with the first local meeting in 1975 at which the Federal Government discussed the inclusion of the Mississippi in the Federal Wild and Scenic Rivers System, the Mississippi Headwaters Association—of which I'm secretary-treasurer and have been active since its formation—alerted various counties and citizens to the dangers which we felt were inherent in the Federal proposal. We visited not only among ourselves, but also we talked with people from the National Park Service, with people from the State, and conservation people generally. We concluded that what was being proposed at that time was completely inappropriate. The hearings were inadequate. Furthermore, we felt there were people already active in governmental units in this area who should be able to administer the Upper Mississippi better than people who would come from other areas and be dominated by policies which might be determined in other areas.

I found that the Regional Director of the National Park Service recommended in 1977 nonapproval of the initial Federal proposal because of the many faults which were found in it. For instance, the area was much larger—they were proposing at that time 353 miles of the river to be involved—than any other designated wild and scenic river, most of which were under 100 miles. There were many other things relating to the Federal proposal which Park Service officials felt were inappropriate. They concluded it would be very difficult for a single agency to administer it.

Already there are eight counties who have officials and other people who have lived much of their lives here, who know and understand the problems and the river, and who could help in developing and implementing sound policies. The Mississippi Headwaters Association directed resolutions to county boards, county board members, and the public in general to express their feelings on the inappropriateness of the Federal agency work. The association encouraged the counties to proceed and undertake the responsibility. They have done so.

As stated by an earlier speaker, real problems lie ahead. The Mississippi Headwaters Board has proceeded in a very thorough manner, and it means business. With reasonable support and availability of some local money, with some State support and some Federal participation where it may be appropriate, I think that it can do the kind of job that's needed.

One sideline: I think many of us have been concerned with the question of development. The original plan had some projections on the increasing recreational use of the river. They estimated use in 1975 of 20,000 visitor-days to increase by the year 2000 to 247,000, a multiplication of 17 times. Many of us have a strong feeling that, while the Mississippi can be developed and its use for recreation and other purposes can increase, it shouldn't be our purpose to build something which would be overused. The development should be done very carefully. One of the difficulties with some Federal recreational projects is that sometimes when they get a name such as wild and scenic river, wilderness area, or national park—or even to some degree a national forest—they may be overrun. There is more publicity than there is really base for the recreation and other uses. I think that's one of the problems.

While certainly we need the development of facilities for uses which are appropriate, at the same time we should not judge the success by how big we can make use of the Mississippi or how fast we can do the job of developing it. I think we should develop it in an appropriate manner and keep it as an area which is protected and available for many, many uses by many people. But we need not try to set some sort of speed record in doing it.

Thank you for the opportunity to say a few words.

Senator DURENBERGER. Thank you for adding that comment. I have just a general question I'm going to ask this panel. Any or all of you may respond to it.

It could be said that the Headwaters Board is a reaction to outside pressure from the 1974 inclusion of the Upper Mississippi in the Federal Wild and Scenic Rivers System. Or, it could be said that it is a coming together of the concerns of a whole lot of people which finally took a particular form because of outside pressure. So, to the degree that what you are doing can be done in other areas, I'd like your observations about whether or not what you are going through here is just a reaction to pressure from the Federal Government or someplace else; or if, in fact, there was just a consensus at various levels that something had to be done about the upper 400 miles of the Mississippi River; or is the truth somewhere in between? I mean, how do we address that? Because, if part of the answer to that is, "Yes, there was this pressure," then those at a national or State level have to keep thinking "How do we bring pressure on some of these people and then back off at the right time?" Does anybody want to make any observations on that? Do you understand my question?

Mr. COMPTON. I'd respond to that by saying it's probably a combination of the two. There, undoubtedly, has been a great interest in this entire area of conservation, in preserving the river, the forest, and the entire area. Certainly, the Federal designation was the catalyst that brought them together. It allowed the individual counties to be brought together realizing that individually they no longer could fight the situation or do it on their own. It was a catalyst that probably forced the forming of the joint powers agreement and brought the program to bear.

Unfortunately, the alternative is that it forces State and Federal agencies to put on that pressure to cause these things to happen. Ideally it shouldn't be that way. There should be enough local support to generate that kind of program by itself. I don't know if that will ever happen.

Senator DURENBERGER. Are there any other observations that anybody wants to make?

Mr. KUJAWA. I would say Dick just about said it all. I think that we have cooperation from the State DNR and everybody else connected. The recreation people have a very good plan. It's very well outlined, what we are trying to do. I think we need these people in the future. I don't think there will be any backing out. I think we will have to remodel it as we go along. We see this in 1982. We don't know what it will be like in the year 2000. I don't think I'll be here through the sessions. Maybe I will. I don't know. Maybe I'll change my way of living. [Laughter.]

Anyway, it is something that we will have to do as we go along. Maybe this looks real good now but it is flexible. We have a very good citizens committee and very good advice. We have the future to call on anybody we want—the DNR, including Federal. I'm sure that down the years they won't be combined dropping on the wayside. They will be very essential in keeping this going, making a better recreational area, and preserving the Mississippi. We will have to have that information. I don't think anybody will drop out.

Senator DURENBERGER. Roger, do you have any questions?

Mr. MOE. Mr. Chairman, I would just like to follow up on those comments. I would make a request of the panelists since this is new. In the case of anything that's new that becomes law, oftentimes what we thought made sense initially sometimes has to have some fine tuning. So, I was wondering if there are any immediate changes in law or, as you project, long-term changes in law at which you think it would be necessary for us to look. And I would like to qualify that in one area. I'm talking about nonbudgetary items now. That's an entirely separate issue that comes up at other times. Are there just mechanisms that need to be changed?

I bring that up realizing there is a State legislature However, I think the local officials are the ones that have to live with what we sometimes do to them. I'm just wondering if there is anything you can see in the law that needs to be changed as we project into the 1980's.

Mr. KUJAWA. At the present time I do not see anything we should change. I don't think that it will come up in the near future.

Mr. COMPTON. I can't.

Mr. KUJAWA. We have had a very good response from the local people all along, not only just along the Mississippi. This is for statewide, U.S.-wide. We should hear, from time to time, through our advisory committee or the board itself, if there should be some change in the making.

Mr. BLACK. It's my responsibility to sit between two Senators and just be a citizen.

The program that's been developed here is of great interest to me and to the committee that I represent. The committee is studying what might be done in the metropolitan area of the Twin Cities regarding the management of the three rivers—the Minnesota, the Mississippi, and the St. Croix. I'm very eager to learn as much as I can, and I don't want to ask a question that's off base. Roger said that he wasn't asking a budgetary question and I'm not going to ask a direct budgetary question. However, I am interested in how you have progressed in regard to staffing this responsibility. Is it essentially staff work by the different county government personnel doing this, or is there someone whose responsibility is essentially to make this program go?

Mr. KUJAWA. Well, we have the responsibility of all the counties involved. I think we have the right and we are on the right track. For instance, we have an executive director who is over all. I'm sure that there is a lot more that could be done, but like Senator Moe says—no budgetary deal. Well, you are not going to do anything today without money.

Right at the present time it's the counties that are involved, the eight counties. They are matching dollar for dollar, and it is costing them money.

I'll have to add this in—I take it, it's the proper time and the proper place. It isn't for the eight counties they do this. What the eight counties use of the Mississippi, whether they use recreation or whatever, it's a very small percentage. This is statewide, U.S.-wide. This is what we are preserving it for. It isn't just for the eight counties.

In some of the public hearings we held in this room, or in some of the other rooms in this building, I was afraid to go out. I went out the back door. I'll tell you, I think they would have drowned the Mississippi Headwaters Board if they could not get along. All they had on their minds was the Federal, Federal, Federal, see. Today, I don't see any conflict, but I don't see the responsibility of decisionmaking or financial to be only the eight counties involved. I can't see it because it is for the whole United States, not only the State of Minnesota. I think it will be worked out, but it will take a little time and effort.

Senator **Durenberger**. Harold, I wonder if I could ask you a question from the private sector standpoint? You are in the forest products industry, which relates uniquely to natural resource management, utilization, preservation, and availability. Stepping apart from your relationship with Blandin, and looking at the forest products industry as an institution in this country, do you have any thoughts on how we, in Government, might most appropriately change certain public policies—or whatever they might be—that would enable the forest products industry to do even more than it is already doing in providing an alternative to the public sector or governmental management of the natural resources? Or, have we already provided enough incentives, authority and everything else?

Mr. **Zigmund**. I don't think we are looking for incentives. Relative to our needs for wood—which is, of course, basic to the survival of the industry as it is constituted—the Federal Government owns so much timber. Of course, the counties and the State own considerably more. I'm talking about the State of Minnesota particularly, where industry owns only 7 percent of the forest land.

We live on county, State, and Federal forest—wood. Making that available to us and making it predictably available to us is very important. I certainly don't think that my company is looking to the Federal Government, the State, or the counties to give us anything. It's there; it has to be cut; it has to be managed at its optimum.

The forest industries of the State are not the only ones that consume the wood. The other consumer of wood is the person who heats his house with wood. That, incidentally, is almost as much as the pulpwood harvest in the State of Minnesota—over 1 million cords, 1.3 million I think was the last figure I saw. People are out cutting wood for home heating. So we are now competing with the home heater, if you will, for wood. I would think that what we are looking for is something predictable in the future for wood needs.

The other thing is getting to the Boundary Waters, which has been a sore spot in the industry for some time.

We would like, at this point, for the Government to live up to its agreement to provide funds. I've forgotten the numbers, $3 million plus a year for something like 10 years. We want them to do what they said they would do. We fully appreciate the budget problems.

Senator DURENBERGER. How about as a landowner? Looking at it as tax policy—for example, tax assessment policy and so forth—is there a role for private landowners in the preservation of natural resources? I think you gave one example to our staff of a private company over in Wisconsin, I think, that manages a river to——

Mr. ZIGMUND. I don't know whether it's very well known or whether it's one of the best kept secrets. The Wisconsin River is a river of some length. Its flow is controlled entirely by private industry. That means that there are 12 companies which are stockholders in the Wisconsin River Improvement Co. They have built dams, reservoirs, papermills, and power companies. I think there are some 12 companies involved with 26 power sites on the river. They control the flow of the river, and they control the reservoirs for recreational use. I don't have all the information at my fingertips, but they claim it's the hardest working river in the world.[1] They have developed the power sites on 645 feet of fall out of a river whose total fall, from its source to the Mississippi, is 1,050 feet. That's over 64 percent of the available power that's being generated on that river.

Another point is that there are four more sites that can be developed on 188 feet of fall which they feel is economical to develop and probably will be developed. That will be 833 feet out of 1,050 feet. If you take into consideration that the river has to flow from one reservoir to another, you lose some feet there. That's 83 percent of the power generating capacity of that river and that's all done by private money.

I would like to make an interesting comparison. Everybody talks about controlling the river flow and what it does for an area. Everybody looks at the TVA. Of course, they rightly should. However, the TVA costs the U.S. Government, or we, the taxpayers, $13,000 per cubic second feet of mean annual flow past a particular gage on that river. The Wisconsin River costs $175 for the same unit, and the flow of the TVA is 5 times that of the Wisconsin River. Even if you multiply $175 by 5, you only have $875 per cubic foot per second.

Now, those comparisons are sometimes a little flaky and you can poke holes at them. Regardless of cost, one was done with private investment and the company pays its share of taxes like any other company. It controls the river as well as any other river is controlled, as far as I know. You have floods everywhere from time to time.

Obviously, it is an example of private industry doing something with the river for the private good and for their own industrial benefit. However, they are taxpaying companies. There are no Federal expenditures in the operation of that river. That includes having meteorologists and people who measure snow levels and moisture levels, and who predict river flows—doing all of that in conjunction with the Corps of Engineers, where it empties into the Mississippi.

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[1] See p. 135.

So, there is an example of private industry doing something of a major nature which very few people know anything about it. That started in 1977. I think there have been several laws passed since its inception—I think the last one was written in 1979. The purpose is to keep upgrading the charter for this company to operate the river. Certainly, the Wisconsin River Valley towns and industries have benefited a great deal from it, at no cost to the Government.

Senator **Durenberger**. Thank you. I'm told our 10 minutes for questions is up, so let me thank the panelists for their presentations. You are all pretty much experts and I appreciate that.

On the next panel is Mr. Charles Cushman, who is the executive director of the National Inholders Association from Sonoma, Calif.; Mr. Jim Dunning, Midwest Regional Director of the National Park Service, U.S. Department of the Interior; Mr. Chuck Hoffman, director of the National Conservation Council, Washington, D.C.; and Mr. John Maxwell, public lands specialist for the National Association of Counties, Washington, D.C. They will comprise our national panel.

Let me remind everybody that there are written copies of all the presentations on this table to my right. So, to the extent we don't run out of copies, if anybody needs to pick up a copy of any of these presentations, they are over here on the table.

Let me start in the order of introduction with Mr. Cushman. Welcome to Minnesota. Hope you enjoyed the river this morning.

TESTIMONY OF CHARLES CUSHMAN, EXECUTIVE DIRECTOR, NATIONAL INHOLDERS ASSOCIATION, SONOMA, CALIF.; JIM DUNNING, MIDWEST REGIONAL DIRECTOR, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, WASHINGTON, D.C.; CHUCK HOFFMAN, DIRECTOR, NATIONAL CONSERVATION COUNCIL, WASHINGTON, D.C.; AND JOHN MAXWELL, PUBLIC LANDS SPECIALIST, NATIONAL ASSOCIATION OF COUNTIES, WASHINGTON, D.C.

Mr. **Cushman**. I did very much, Senator.

Thank you for giving us the opportunity to testify. As you know, I've submitted a substantial written statement. I'll try to summarize it very quickly.

The National Inholders Association represents those people in the United States who own property within the boundaries of federally managed areas, or who are impacted by the management, regulation, or access of those areas. We represent the families and communities left out of the debate to create preserved areas. These debates have often turned into preservation versus development with the communities left out.

I spoke to the National Park Service, the Forest Service, and thousands of groups around the United States. We think, as a prototype, the Upper Mississippi Headwaters Board is the best non-Federal solution present in the country. We think it certainly has the best support locally of any Federal or non-Federal preservation effort in the country.

Why a search for a non-Federal solution? Since 1966, 42,000 have lost their land and homes to the National Park Service alone, not including other agencies. This is not including the Big Cypress in Florida. In 1979, there were 21,000 Federal condemnations in this country, all by Federal agencies like the Corps of Engineers and the U.S. Department of Transportation. Over 10,000 of those condemnations were by the National Park Service.[1]

The Senate Appropriations Committee said in a recent report:

> The Federal Government already owns well more than one-third of the Nation's land, and the committee believes the current drive to acquire still more should be reassessed. Too often, it seems, Federal land acquisition is seized upon as a quick fix for recreation, resource conservation, preservation, and environmental protection proposals. Meanwhile, the rush to bring more and more acreage under Federal ownership has at times trampled upon individual property rights, vastly inflated land values and, in some cases, fostered profiteering or corruption. Preliminary findings from a current General Accounting Office investigation have suggested widespread problems in this area and seriously questioned the real need for many land acquisition proposals and practices.[2]

I doubt very much if we could have said it any better. Since that time, there have been four more General Accounting Office reports.[3]

In summary, those reports say that the Park Service and the Forest Service are buying more land than they are supposed to and paying more money for it. They are not using alternatives; not prioritizing their acquisitions; not paying attention to the needs of local governments, local landowners, and local communities; and, frankly, just not following the intent of Congress. The GAO was so concerned that in their last three reports they recommended that the National Park Service sell land back to the private owners. One of those areas was in this region. There have been two investigations by the Inspector General of the Interior Department with allegations of abuses, boundary problems, and serious overexpenditures far in excess of what was intended by Congress; one national television show; two movies; two books; and numerous other reports.[4] Robert Herbst, former Assistant Secretary of the Interior Department, said about 1½ years ago he thought there were potentially $20 billion in land acquisitions out there in existing areas if we don't eat up any more. Obviously, if there is that much smoke, there has got to be some fire.

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[1] See "GAO Report, The Federal Drive to Acquire Private Lands Should Be Reassessed," CED-80-14, Dec. 14, 1979.

[2] S. Rept. 96-363 to accompany H.R. 4930, "Department of the Interior and Related Agencies Appropriation Bill, 1980," p. 15.

[3] See "Federal Land Acquisitions By Condemnation—Opportunities To Reduce Delays and Costs," CED-80-54, May 14, 1980; "Lands in the Lake Chelan National Recreation Area Should be Returned to Private Ownership," CED-81-10, Jan. 22, 1981; "The National Park Service Should Improve Its Land Acquisition and Management at the Fire Island National Seashore," CED-81-78, May 8, 1981; and "Federal Land Acquisition and Managment Practices," CED-81-135, Sept. 11, 1981.

[4] See GAO report, "Federal Protection and Preservation of Wild and Scenic Rivers Is Slow and Costly," CED-78-96, May 22, 1978; U.S. Department of the Interior, Office of Inspector General, "Special Review of Land Acquisition Policies and Practices in the National Park Service: Part I—Cost Estimates," November 1981; S. Rept. 96-251 to accompany H.R. 4392, "Departments of State, Justice, and Commerce, The Judiciary, and Related Agencies Appropriations Bill, 1980," p. 23; and Committee Publication 97-34, Senate Committee on Energy and Natural Resources, "Workshop on Public Land Acquisition and Alternatives," October 1981.

We think the Upper Mississippi Headwaters Board offers a real opportunity for an alternative. We think it encourages local support and protects the local tax base. Obviously, the design is to protect the river, encourage recreation, and allow local control. It is far less costly and far more responsive to local needs. Uses are positively placed, which the National Park Service doesn't have in any way. It encourages State and local cooperation.

As a prototype, we think it is the model for the future. It is directly transferable to many areas in this country, with obvious site specific modifications which would have to be changed to fit each individual area.

We would suggest that this subcommittee recommend to the Congress of this country that, from this time forth, there be no single study authorized by the Congress for the preservation of new areas. Instead of giving the National Park Service, as we did in the Upper Mississippi, $400,000—give them $300,000 and authorize a million dollars—I mean $100,000—to be matched by State and local governments for a competitive study.

This is no different than what we do in the military, Senator. When we go out and buy a jet, we don't just go to McDonnell Douglas and have them design us a bomber. We go to three companies; we have three alternatives; and we pick out the best one, the best plane. The most economical one that does the most things is going to get the job.

We think if the National Park Service and other agencies were forced into a competitive bidding situation in preservation, the country would be better and the enthusiasm for preservation would be better. A sort of competitive attitude of "We can do a better job" will encourage local support.

A second aspect of that is to set up preservational protection zones, such as local headwaters board-type programs—not unlike the enterprise zones considered in parts of the country—incorporating landowners, tax breaks to landowners and government participation. This encourages private support utilizing the private sector, cuts dramatically into the cost by encouraging local cooperation, and forces the National Park Service and other agencies to compete. We think if they are forced to compete, they will get better. If they don't compete, they will be out of the preservation business.

Thank you very much.

Senator DURENBERGER. Thank you very much.

Jim Dunning, welcome.

Mr. DUNNING. Senator, panel members, and everyone in the room, I'm very pleased to appear before this subcommittee today on behalf of the U.S. Department of the Interior. By virtue of the role that the Midwest Regional Office of the National Park Service has played in the events leading up to the formation of the Upper Mississippi Headwaters Board on the development of a plan for the river, it is appropriate that we represent the Department at this hearing. It was the Midwest Regional Office which conducted the Federal study to which the headwaters counties reacted. In a sense, we were the adversaries.

However, I believe all sides showed enlightenment, including a sense of responsibility and a willingness to look at other solutions when their own were not acceptable.

At the time, this proposal, which led to what we hoped would be an enduring plan for responsible management of the Upper Mississippi, may have seemed innovative. Today it is policy.

On May 7, 1982, a new policy for the use of the Federal portion of the land and water conservation fund was published in the Federal Register. There were four basic objectives of this policy:

One, identify what land, or interest in land, needs to be in Federal ownership to achieve effective management consistent with the public interest by which the area was created;

Two, maximize the use of practical alternatives to direct Federal purchase of lands when acquisition is necessary;

Three, cooperate with landowners, other Federal, State, and local agencies, and the private sector to manage land for public use or resource conservation; and

Four, plan for land acquisition and resource protection to insure due consideration of sociocultural impacts and adequate management of the most outstanding areas.

Mr. Chairman, if all these policies are intended to guide the Federal manager in the administration of Federal areas, they also shall guide us in evaluating the appropriate level of involvement in potential Federal projects. The overriding principal is one of flexibility and careful consideration of alternatives to direct Federal control. That, we believe, is what was accomplished on the Upper Mississippi.

Mr. Chairman, accompanying me today is Mr. Bill Farrand. He was the team captain of our Upper Mississippi study. We would be happy to respond to any questions you might have about the history of our role in that process that led to the Upper Mississippi Headwaters Board and its plan for the Upper Mississippi.

Thank you, sir.

Senator DURENBERGER. Thank you very much.

Chuck?

Mr. HOFFMAN. Thank you, Senator. My name is Chuck Hoffman, I am director of the National Conservation Fund. It's a national education center located in Washington, D.C. Our basic goal is the preservation of the Nation's rivers. Our basic plan is to expand the opportunities for conserving rivers. Basically what that means is we are not beholding to any program at all. We are for whatever works.

We believe that the demands for river conservation in this country is at an all-time high. What you get down to, after the studies take place and the politics start to shape up, is the question, "Is it going to be a Federal program, a State program, or some kind of a local program."

In the past, the Federal programs such as the National Wild and Scenic Rivers System have always been No. 1. However, problems have certainly come into existance. The most important one that I would like to convey is a problem which I like to call the "Vietnam Syndrome." This is a situation where the managing agency controls the countryside but does not necessarily control the hearts and minds of the local community. The situation features a high degree of polarization, no trust, infighting, attempts to undercut the agencies responsible with additional kinds of restrictions, and maybe the use of more condemnation. There are a lot of personalities that get involved in this, and things can get very vindictive. I'm sure everybody here is well aware of that.

To overcome those kinds of problems, we must take advantage of a couple of traits that already exist in a lot of communities. One is a sense of stewardship for the land—the concept that if we take care of Mother Earth, Mother Earth will take care of us. The second one is the concept of essentially a community river—the tie that binds—the river in a valley being the focal point for the whole agricultural or urban community which happens to be there. Its source is the water supply and its ability to generate commerce by way of that water supply or, in other situations, by way of navigation.

We need to develop two other concepts. One is a sense of partnership—the idea that the Federal Government can work together with the State and local sectors and the private sector to work out a plan which is mutually agreeable to everybody. Then, we need to develop, out of that sense of partnership, a sense of participation to where local folks are actually getting involved. In that we have a situation where people are contributing, people are taking part, and people are enthusiastic about a river. You can see that here.

I've been to many different river events around the country. The thing I noted most that's different here from everywhere else is, down on the river today most of those people who were in attendance were from the local government and the local community. Lots of these events feature a direct absence of those kinds of folks in favor of river users and the conservation community. Those people, the users and the conservation community, aren't around day in and day out to take care of the area. They move from issue to issue and place to place. This is particularly true of the conservation community, where factors relate to the absence of resources. But the local community is there every day. It just makes me feel good to see that out on the river.

In the end, the land and water conservation fund essentially favors whatever the local marketplace will bear in terms of protection strategy. If it turns out that some kind of local zoning is the answer that the people are willing to go with, then we say "Fine." If after that people decide that they need to go to something stronger, then we have the opportunity to go for something stronger. The important point is, though, that we move a little closer to protecting the river. I don't think we have to get it all at once. Posterity turns out to be a very long time.

We have developed, in our testimony, a list of a dozen specific proposals which I want to just run down for you very quickly. The first four were involved in a bill which was introduced in 1980 by Peter Kostmayer.

One, the establishment of a program of special grant assistance for State and local governments for the acquisition of key riverfront properties. Such would require a 20-percent non-Federal match.

Two, the establishment of a loan guarantee program to State and local governments to allow for the acquisition and subsequent resale for compatible uses of lands associated with protected rivers.

Three, the establishment of a similar loan guarantee program for qualifying nonprofit organizations.

Four, perhaps most important, direct Federal agencies to avoid adversely impacting river segments receiving assistance under this bill or segments protected by Federal, State, or local river programs. Essentially that would convey protection of the National Wild and Scenic Rivers System, particularly in regards to water projects of State or local river programs.

Five, the institution of a grant program, administered by the National Park Service, operating under an amendment to the National Wild and Scenic Rivers Act. It would provide for small grants to local governments along federally designated river corridors to help defray planning costs associated with the river and the management plan development.

Sixth, the authorization and appropriation of specifically authorized grants to State and local governments to conduct low-cost studies on rivers of national interest.

Seven, the establishment of a river commission—river commissions composed of interested citizens and governmental delegates—may I finish my list? I have four more.

Senator **Durenberger**. If you do it quickly.

Mr. **Hoffman**. I can do it very quickly—for rivers of national interest which appear on the National Rivers Inventory or which may be rivers under study.

Eight, use the matching funds, available in some regions, of the land and water conservation fund to do local studies on a matching basis.

Nine, this would be the national reserve approach, greenline parks. We would like to see that continued to be fostered.

Ten, we would like to see agency guidelines changed to take into account more fully cultural values, dynamics, et cetera.

Eleven, we wouldn't mind seeing the term "recreational rivers" stricken from the National Wild and Scenic Rivers System. You could probably change it to something like "natural" in order not to terrify the local landowners, No. 1; and, No. 2, not to develop areas for extensive recreational development which are generally in private ownership. Those things seem to be incompatible.

Twelve, finally, make it clear that the Federal Government's natural resource management initiatives, in most instances, should only be undertaken where there is a strong and up-front commitment by local governments to conserve an area.

Senator **Durenberger**. May I make an observation? All of your written statements will be made part of the record, so those of you who are abbreviating these statements needn't fear that all the effort you put into them will be lost from the record.

John?

Mr. **Maxwell**. Mr. Chairman, as you said, my name is John Maxwell. I'm a public lands specialist at the National Association of Counties.

First I would like to say that the National Association of Counties [NACo] admires the strong working relationship that exists in this State between the State government and the counties. We believe that Minnesota is in the forefront of reform in many areas. We admire what you have done in fields such as corrections, social services and environmental management—to name a few.

NACo greatly appreciates the opportunity to testify on local initiatives to natural resource management and the Mississippi Headwaters Board as a management alternative. This successful joint county approach to river management proves that counties, as well as the Federal and State governments, should be involved in the management of our Nation's natural resources. In the last two decades many solutions to natural resource management have been sought in Washington, D.C.

However, counties are also able to come up with innovative and creative solutions. Today I would like to open up the county casebook for you to look at some proven innovations in the management of natural resources. I am here to suggest to you that the county solutions are, in many cases, viable alternatives to Federal control of natural resources.

NACo believes that counties have an important intergovernmental role to play in planning and managing the uses of natural resources. County officials have been elected to represent and express the economic, social and environmental concerns of local citizens directly affected by natural resource management decisions. Counties have land use planning and zoning authority where many significant natural resources are located. So, counties have an important stake in natural resource management decisions.

The literature of resource protection has long noted that local exercise of the police power has advantages in comparison to costly fee simple land acquisition. The key element to the creation of the Upper Mississippi Headwaters Board was the confidence of local government units that they could and would exercise effective police power controls to preserve their part of the Mississippi River for future generations.

In the Upper Mississippi River situation the negotiation between the Federal Government and the counties about the management of the river resulted in a strong management plan. Counties want to explore new kinds of partnerships like this with the Federal Government in natural resource management. However, on one point they are firm: Where new Federal land acquisition is proposed, there must be consent of the affected county governments.

The reliance by counties on the property tax underscores the impact Federal landownership has when it leaves counties with a diminished tax base. Because of potential tax base effects the National Association of Counties does not support the designation of Federal Wild and Scenic Rivers without the agreement of the affected counties. Additionally, all Federal Wild and Scenic River management proposals must be consistent with local land use plans.

The Upper Mississippi Headwaters Board approach illustrates the cost effectiveness of local police power control in contrast to Federal control by condemnation, purchase and easement. The Upper Mississippi effort is the most ambitious multicounty resource protection scheme to date. The fact that it is being implemented successfully speaks highly of the county governments in the State of Minnesota as well as of the many individuals who helped shape the plan. Last year, NACo recognized the importance of the Upper Mississippi plan by adopting a resolution of support at our annual meeting.

County government is an exciting place for creative ferment in the management of natural resources. Many of the new approaches being tried by counties in various aspects of natural resource management may be transferable to resource management situations outside of the field that they were originally developed for. New techniques being applied in farmland preservation may also have applications in river management. The Upper Mississippi River approach may have applications in other fields.

As an example of a sophisticated county resource management process, consider the overlay district system developed by Jefferson County, Colo., to supplement its zoning map. Overlays have been adopted for geologic hazards, flood plains, and wildfire hazards. The hazard areas impose an additional restriction on how the land may be used. In general, the existence of a hazard district precludes the construction of buildings or any change in the use of the land which would significantly increase the danger from environmental hazards. The overlay system is intended to reduce the commands for public expenditures for relief and protection of facilities permitted in designated districts and will help minimize the danger to public health and property from environmental hazards.

Some of the most significant innovations in land management by counties have come in the area of agricultural land preservation. Senator, you may be familiar with the Montgomery County, Md., farmland preservation program. That program helped pioneer the concept of a development rights bank to help support a market in transferable rights. People in Minnesota also have heard of Olmstead County's innovative and practical application of the cluster zoning concept to agricultural areas for the preservation of prime farmlands. Multnomah County, Oreg., has successfully required farm and forest management plans as a condition of subdivision. This presents landowners with options about the use of their property that may not have occurred to them.

In certain situations, counties have worked directly with developers or industry to allow private and public purposes to be carried out at the same time. For example, in Montgomery County, Ohio, an agreement between the county and a limestone mining company allows land to be reclaimed for public recreation, while quarrying continues in other areas. The land was purchased by the county and the company pays the county a royalty for all limestone removed in return for the right to continue mining for 10 years. Reclamation has been a joint public/private effort. The focus of the park is water-based recreation on lakes formed by the old quarry sites.

Counties are also working with private resource preservation groups, most notably the Nature Conservancy.

In the area of water resources management, counties have worked successfully with Federal agencies. In its study of "A River of Green," King County, Wash., provided the U.S. Army Corps of Engineers with guidelines concerning recreational opportunities and riverside lands which might be included in the Corps' proposed levee improvement project to conduct a much broader study.

At least one county was actively pursuing a river preservation program back at the time when rivers were first beginning to be entered into the Federal Wild and Scenic Rivers System.

In summary, county governments have much to offer as a vehicle for protection of natural resources. It has been my distinct pleasure to provide you with examples today. I want to thank you for the opportunity to testify.

Senator **Durenberger**. Thank you, all. Let me start out again with a general question, since the tie that binds the four of you together on the panel is that you have a national perspective of our problems.

As I indicated in my introduction, this is hearing No. 28 or 29—or something like that—in a series which is designed to deal with "How do we address national problems in different ways, particularly recognizing the abilities of local governments, and individuals in many cases, to do a better job than sometimes we do with the national program."

As I listened to the testimony here today, I'm reminded that, all through the last 15 to 18 months now, we have been dealing with some misconceptions and conceptions of New Federalism and so forth—particularly when we are dealing with them in a budget cutting context. We got there over the last 20 years because we, in a large national sense, couldn't find the kind of response at a State or local level that seemed to be appropriate. You will find people at the State and local level acknowledging that:

> Yes, 20 years ago, 10 years ago, our legislatures were not put together on the one-man one-vote, one-woman one-vote, one-person one-vote principle. Then we had not developed adequate progressive tax systems—Federal and State revenue sharing with local governments, and so forth. Yes, it is a fact we did not respond at the local level as we should have. That's why you see this—everybody going to Washington, in effect, to provide for the answers to their problems.

The problem, if you will, that we face now, as we try to sort of turn this system around and get everybody agreeing on what the nature of the problem is so we can find better solutions to the problems, is that, in the case of natural resource management, many of us would probably agree that counties, for example, are pretty good implementers of policy. I've seen a lot of that myself in different parts of this country where Federal money or State money may have gone into the acquisition of large areas of land, or providing the funds to acquire scenic easements, or whatever; but the actual implementation and the management was done much better by local people. So we end up here trying to bring together a kind of a, "Yes, this is a nationally significant resource; it ought to be preserved for its natural value, or recreational value, or whatever it is; and, yes, we would like the following to do it." Somehow we have to find how we mesh this national consensus and the important answer of what we are doing and the local ability to respond to the need to manage it. Maybe each of you have some way to assure us.

Ray has a problem that I guess would be a problem eventually. I guess the national and State people are not directly represented on the Mississippi Headwaters Board. In effect, they may be consulted with, but they are not there making decisions. I don't think, Jim, you have anybody sitting on that board, or the National Forest Service doesn't? Roger Moe does not. Yet this is a natural resource. We will need some national funds and State funds and so forth over the years. Ray's problem is that he tried to find a way, in the metropolitan area, for everybody to get together on the management of three large rivers in a unique metropolitan area. Yet your boss, Mr. Watt, insists there isn't enough money to put into this board. Somebody from the Fish and Wildlife Service sits on his board and somebody from wildlife sits on his board.

It is really hard to get the Government's attention. They have the sense, if they don't like what you are doing, they will go off and dredge the river—do whatever they please.

I guess what we are searching for in this process—I apologize for using up 10 minutes to ask a question—what we are searching for in this process is how you sort of bring these—the Federal, State and local—together. Maybe, Jim, you and Bill have learned something in this process on this one. I'd appreciate the reactions of people to that quandry. Jim, do you want to start?

Mr. DUNNING. I think so, Senator. Just to go back a little bit, when the Bureau of Outdoor Recreation originally submitted the plan, there was very little public input. There was concern shown from the Minnesota constituency. As a result, a bill was introduced directing the National Park Service to prepare a plan before it would be implemented. That bill didn't happen to make its way through the legislature. However, it showed the interest at the State level that that plan simply was not adequate.

In response to the environmental message by President Carter in August 1979, which directed the National Park Service to make a conceptual master plan, the State and the Midwest Regional Office were thrown together. As a result—I think Senator Lessard needs a lot of credit here—we got together with the people of the eight counties concerned. They dipped into their own pockets, I might add, and funded a firm to study it on their own. We got together along with the National Park Service and, as all of you know, agreed to shelve our plan and go ahead with the Mississippi Headwaters Board plan. And I think that's most appropriate.

I think that's the way it should be done. I, for one, endorse this whole idea from the Federal sector. I endorse this whole way of doing business in conserving natural resources.

Senator DURENBERGER. That's a version of your competitive bidding, I take it?

Mr. CUSHMAN. It's real critical that the local governments have an opportunity to participate. Very often they are left out.

As we all know, in this legislation the Upper Mississippi almost went into the Federal Wild and Scenic Rivers System in 1978. Certainly, if it hadn't been for Congressman Oberstar, the Upper Mississippi Headwaters Board never would have had an opportunity. We have been rushing some of these preservation areas in without adequate study, and without adequate local support, and have been sort of placing them as an umbrella—imposing them, if you will—on local governments.

This shows a model of what can happen. It was sort of an informal competitive arrangement, but it had exciting results. You had to work to slow up the Federal Government, to give the counties and the Headwaters Board time to get the job done, but the results were marvelous. Now, I think we can move ahead. We can use this as a model in a competitive concept. I think it will generate your local support.

You know, I have a lot of criticisms of the National Park Service. However, one thing has come out of the last 4 or 5 years. All the controversy has certainly heightened the awareness of the average public for preservation. There is a real flashback of fear. There is a Federal alternative which greatly increases the chance that local governments are going to be enthusiastic—I'm not talking about just here, but nationally—for looking at these alternatives.

So, if there is a bright side of the coin, we can take that and run with it. It does encourage that competitive bidding type situation. The Federal alternative sort of lurks back there and motivates people to get serious about it. By throwing out this grant which has to be managed with the local government, it has input. If you're serious about the game, get in and put out; if not, we will go on.

Senator DURENBERGER. Either of you have an observation?

Mr. HOFFMAN. I'm not sure how well I can speak to it. I'll give it a quick try.

In relating to what Chuck Cushman just said, the only problem with the competitive bidding process is there has to be a study authorized somewhere in order to get into the bid game. Through the entire history of the Federal Wild and Scenic Rivers System, there has only been—I think the number is—142 rivers that have ever made it into the System in one way or another. Sixty-one of those rivers have been in Alaska, a place that most Americans will never see and where there is so little public input that I don't know how realistic it really is. That leaves the rest of the country then, with perhaps 80 rivers. The first 9 rivers that went into the System were designated automatically, so perhaps only 71 rivers have had any kind of study. That doesn't leave very many rivers on which to make bids.

As you know, money is very tight. It's going to be harder and harder to do studies in the future. The grant idea, maybe in combination with the study idea, could be the way to go.

We talked about the need to promote the use of commissions. Perhaps for the rivers named on the National Rivers Inventory which encompasses 1,524 river segments around the country—not counting Montana—that may be a good way to go. There are 1,524 rivers which are good enough to qualify for the national system. If we can just promote on those areas, I think that's the way to go.

Mr. MAXWELL. In the last 20 years, we have found that the business-as-usual situation is where everything has worked from the Federal Government first and then the counties later—from the top down. I think what we need to get to, somehow, is a different kind of business-as-usual situation with a new intergovernmental cooperation process established. I'm not exactly sure how that happens since business-as-usual has been going this way for so long. NACo has noted that we are able to reverse the relationships between county governments and the Federal Government by improving the level of communication between them.

For example, the Bureau of Land Mangement [BLM] had a lot of problems with county governments, and county governments had a lot of problems with BLM a few years ago. NACo received a grant from BLM to improve the communication between field officials of the Bureau of Land Management and county officials. Today the situation is largely reversed. So I think that somehow you first have to get into a kind of a mode of increased communication and perhaps from that will flow greater intergovernmental cooperation.

Senator DURENBERGER. Ray, do you want to ask any questions?

Mr. BLACK. My question relates to the same problem of federalism. At present we are in an environment of shifting more responsibilities back to local governments. So, this plan is in keeping with that.

Yet, I see a terribly big sword hanging over this joint powers board—the Federal Government's threat to come in. There is still another sword insofar as the State intervening. It might be difficult to sit on that board, thinking that any decision might be the trigger to drop it.

Is there any way this board can insure a reasonable life, maybe 5 years, in its ability to perform? Maybe this goes more to you, Mr. Dunning, in terms of one of the threats that has occurred in the past. Is it possible for the legislature and the Congress to insure a 5-year period to try this out?

Mr. DUNNING. I suspect I can't respond to this personally. The Secretary has indicated he will shelve his plan until it's demonstrated the system will not work. I can only say to you that I feel Secretary Watt would be very disinclined to alter that situation unless some dramatic event took place. Frankly, I suspect that Senator Durenberger would be involved if, indeed, there was a change like that. I think that's the way the Secretary works. There would be considerable dialog before drastic action like that would take place on their part. I don't know if that's any assurance or not, Mr. Black.

Mr. BLACK. It's encouraging.

Mr. DUNNING. I honestly can't imagine the Secretary altering that arrangement in the foreseeable future.

Senator DURENBERGER. I can't remember in whose jurisdiction it is, but we had another curious phenomenon in the State in the mid to late 1970's—it came out of the Federal Government and didn't go anywhere in Minnesota—called coastal zone management. As I recall, in our case, it operated over the Great Lakes and acted to benefit those northeastern Minnesota counties that bordered on Lake Superior. My sort of faint recollection of the process is that some of the counties involved—maybe one or two of the counties involved—thought it might be a good way to utilize some Federal funds for some joint planning. One or more of the others said "No way." They didn't want anything to do with it.

I don't know, Jim, if you had any experience with that program, and if there was anything to be learned from the mistakes made on that program that would benefit this process.

Mr. DUNNING. I'm sorry, Senator, I wasn't involved in the Minnesota one. I did happen to be in North Carolina, in Cape Hatteras, when they were working on it. Frankly, we worked very closely with the congressional district there and the State DNR. From my own perspective, of course, I think we had a good relationship, and it resulted in a coastal management plan. Obviously, their problems are dramatically different than those of Lake Superior.

Senator DURENBERGER. California has a lot of ocean. Do you have some experience with that?

Mr. CUSHMAN. No.

Senator **Durenberger**. Does anybody else have any questions? Thank you all very much for your testimony today. We appreciate it.

[The prepared statements of Messrs. Cushman, Hoffman, and Maxwell follow:]

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May 31, 1982

TESTIMONY

CHARLES S. CUSHMAN

Before

HONORABLE DAVID DURENBERGER
GOVERNMENTAL AFFAIRS COMMITTEE
UNITED STATES SENATE

FIELD HEARING

Grand Rapids Holiday Inn
2301 Pokegama Avenue South
Grand Rapids, Minnesota 55744

June 1, 1982
2:00 PM

THE UPPER MISSISSIPPI HEADWATERS BOARD:

Finally, a real alternative to federal land preservation strategies.

Thank you Senator Durenberger for the opportunity to appear before this Committee. The National Inholders Association represents the 1,200,000 families that live within or adjacent to the boundaries of federally managed land in the United States. We actively seek to protect the rights of families and communities from unwise land acquisition and over-regulation that has in the past 16 years seen the strangulation of hundreds of small communities and the purchase of the land of over 42,000 families (if you exclude the 45,000 land purchases in Big Cypress in Florida.)

We have fought for the rights of these people with enthusiasm that has angered some and in fact, have actually worked against federal legislation where we could not get provisions specifically protecting the rights of landowners and their cultural environment.

It is, therefore, with great pleasure that I appear before you today because our organization has always fought uncontrolled and unplanned development. We have actively opposed subdivisions, condominiums, commercial development and speculative development within the boundaries of existing federal areas, unless consistent with Congressional intent. However, in our struggle to protect the human rights and property rights of landowners and in our effort to get the Park Service and other agencies to follow Congressional intent, some believe we have become anti-preservation, anti-park and the tool of developers.

Nothing could be further from the truth. The problem has been that we simply did not have a satisfactory alternative to the opposite polls of federal overkill or no control. When we fought federal abuse it appeared we were fighting for no control.

Now, with the Upper Mississippi Headwaters Board and its unique inter-local protection program, we have an alternative we can fight for. In fact, we have been using the Headwaters Board as a model in our presentations all over the country. We think this type of planning will create an opportunity for strong local zoning, recreation opportunities and a conduit for donations and preservation of critical lands which are needed in the public interest. We see it encouraging cooperative management of both public and private lands adjacent to the river here on the Mississippi and in other areas which may deserve preservation in some form but would be damaged by federal overkill.

Without a doubt, the Upper Mississippi Headwaters Board is the outstanding example of non-federal preservation in the United States. Congress, whenever it mandates a study for an area to be considered for federal protection, should also foster and perhaps help pay for a separate alternative study encouraging local interests to participate, as has happened on the Mississippi. Certainly, a new awareness of protection strategies would result.

Congress should now look at ways to motivate local entities to develop efforts along the lines of the Headwaters Board. Tax incentives and other vehicles might be considered. Just as we are considering "Enterprise Zones" in the cities, we might consider "Preservation Zones" with special advantages to local communities that work together in a cooperative planning approach.

Unfortunately, much of the motivation for some non-federal preservation efforts around the country comes because of the fear, a very realistic fear, of a federal takeover. In no state is that fear more justified than in Minnesota with the GAO documented abuses on the St. Croix and in the Voyageurs National Park by the Park Service and the continuing struggle for a way of life in the Boundary Waters Canoe Area.

The Upper Mississippi Headwaters Board is a prototype, we think the best in the country, for interlocal cooperation. This cooperation protects the political identity of the community and the independent political existence of local government. We call is structural disenfranchisement. With the federal government coming in, often basic voting rights and local control is turned over to appointed federal bureaucrats, thus depriving the local people of the right to vote for their governors. It is almost a federal colonization process.

Cooperation has certainly proved to be politically feasible here with local jurisdictions not giving up their structure. We think cooperation can result in economies in terms of service to the communities and a higher degree of citizen participation in government with more satisfaction. The frustration and feeling of losing control often goes hand-in-hand with federal preservation efforts.

Cooperation can allow for a broadening in terms of the geographic base for planning and administration and providing governmental services without the feeling of a loss of local control. Orderly growth with a good exchange of ideas between the multi-jurisdictional areas can and should benefit all concerned while retaining the flexible ability to solve local problems that is so unavailable in federal solutions.

Frankly, the key to this whole issue is public support. When local people are dictated to, they rebel. When they are a part of the solution, they can be and will be more cooperative. We cannot afford to buy out the entire country and many more areas exist that should be protected. In recent years there has developed an anti-federal bias because the Congress has created many new areas and the federal agencies have implemented them, often in a manner inconsistent with Congressional intent. There has been little or no efficient system of oversight. As far back as May, 1978, the General Accounting Office said in its report: Federal Protection and Preservation of Wild and Scenic Rivers is Slow and Costly. They said because the heavy-handed manner the federal agencies used, local support for protection was being lost and the preservation of these rivers was actually being hurt. They recommended solutions that were ignored.

Let's look at the situation as it now exists eighteen months into the Reagan Administration with respect to the federal preservation effort. Let's look at why the Upper Mississippi Headwaters Board is so important to the future of this country:

We regret to inform you that little has changed except the loss of funds in federal preservation efforts. The new land acquisition policy of the Park Service issued in 1979 required the use of alternatives to fee acquisition such as protective easements. The General Accounting

Office says that the Park Service has failed to comply with their own policy and continues to do so to this day. Prior to the 1979 policy only 1% of acquisition involved alternatives. GAO says that since the new policy, the figure has risen to 2%.

By way of illustration, we point out that numerous inholders are offering to donate protective easements to prevent future development and the Park Service is declining to accept them. We submit that hundreds of millions of dollars have been squandered in the past and that the intent of Congress has been continuously ignored and often deliberately violated. These violations are continuing, and nowhere are they more evident than in the Midwest Region of the National Park Service.

We intend to document with this statement that because of these violations there are billions of dollars of hidden costs waiting to drain the Land and Water Conservation Fund if current and past practices are continued. The Wall Street Journal called it "The Silent Scandal" in a June 25, 1982 editorial on the Park Service land acquisition activities (copy attached). We contend that the Land and Water Conservation fund is being mortgaged so badly that future generations will never be able to pay the bill.

The General Accounting Office has issued six separate reports over three years in response to a number of Senators and Congressmen which say, in summary, that the Park Service and Forest Service are buying more land than Congress intended, paying too much for it, not using alternatives, not using priorities in their acquisitions, and are not paying attention to the needs of local government, communities or landowners.

GAO was so concerned about the conduct of the Park Service that in the last three reports the GAO recommended the Agency be forced to sell back lands not intended for purchase by Congress. The last item clearly puts to rest the idea that the Agency is simply obeying the intent of Congress and seriously questions whether Congress ever intended to buy all the land within National Park Areas in fee title. Congress certainly intended to protect the land and to try to make sure that it was managed in a manner compatible with protecting the values of the resource. In many cases, if not most, the value of continuing local communities was clearly indicated by Congress when it provided for the use of alternative forms of protection, such as easements, to prevent adverse future development.

In its report on Wild and Scenic Rivers in 1978, GAO was extremely critical of land acquisition on the St. Croix and felt that many more acres, 21,000 as opposed to 1,000 intended, had been purchased by the federal government. In "The Federal Drive to Acquire Private Lands Should Be Reassessed" (December 14, 1979) the GAO again criticized the St. Croix and also included the admission by a lands officer in Voyageurs that the park could have been protected if only the paper company lands were purchased. The Park Service simply did not need to buy all the private families out. We have attached the cover pages from the GAO reports.

Most recently, the Inspector General of the Interior Department found in an investigation of land acquisition that the Park Service did not provide accurate information to the Congress for it to make informed decisions about land acquisition and authorization of new areas. In one case, Santa Monica Mountains NRA, the Congress used $155 million dollars as the figure for debate. The Inspector General found that at the time the bill was under consideration, the Park Service had done eight estimates of cost which ranged in value from a low of $245 million to a high of $675 million and that there was no evidence that any of these figures were transmitted to the Congress.

Current estimates now indicate that Santa Monica Mountains could cost well over $1 billion dollars. Redwoods National Park is also approaching $1 billion with many other areas running three, four and five times the original estimates. In Lassen National Park, for instance, the Park Service told the Congress that a Declaration of Taking on a few acres designed to prevent geothermal exploration would cost $900,000 while knowing all the time that there was a great possibility that costs could be twenty (20) to thirty (30) times that figure. An interesting question for the Committee is that since a Declaration of Taking was used and Congress thought it was spending $900,000 for something that could cost $20 to $30 million, who appropriated the extra money? The government is obligated to pay what the court decides, and yet this Congress lost control of that appropriations process. It has to appropriate the extra money.

It appears from the Inspector General Report that inflation has not been the only factor in the increases or possibly even the main factor. Faulty information from the Agency and misuse of that information by certain members of Congress has certainly been a significant cause. Our information is that the Park Service appraisers did their job, but the Agency and certain Congressmen chose not to convey the full story to the Congress in order to facilitate the creation of the new area. An area which everyone agrees would never have been created had Congress known the cull cost of Santa Monica Mountains NRA. Both the National Parks Advisory Board (of which I am now a member) and the Carter Administration did not feel this area was even suitable as a national area.

To give you some idea of the potential cost, former Assistant Secretary of the Interior Robert Herbst stated to the National Parks Advisory Board in October, 1980 that costs could run well over $20 billion dollars.

Our position is that this cost potential exists only because the agencies are unwilling to change and that only you can force them to use less costly protection strategies. At present the land acquisition people are trying to wait until the next administration hoping to keep in place the machine that has cost the public so dearly. We hope this Committee will consider both how to motivate the local governments in their preservation efforts, and encourage a new program of making real use of the many alternative land protection strategies in the federal areas.

At the present time the Interior Department has adopted a new Land Protection Policy that if properly implemented could be a major improvement. The policy could make fee title acquisition a truly last result and insists on the use of alternatives wherever possible. However, even as we meet, the Park Service is doing everything it can to frustrate the creation of a special land protection office to oversee implementation of the new policy. Even the eight case studies recently completed by the Park Service which looked at alternatives were woefully lacking because the people who did the studies did not have the tools or training in alternatives and, more importantly, the belief that alternatives could work.

We believe the Upper Mississippi Headwaters Board will work because the people involved believe that it can work. They will really get behind alternative forms of protection that stress the retention of the local land base.

The Park Service, on the other hand, has developed its own constituency which makes it almost immune from change. It doesn't have to use alternatives because it can just wait out the new administration. It has the attitude that it is above the law and any investigative authority. It is only through the appropriation process and committees such as this one that the Park Service can be made responsive.

For example, in response to the General Accounting Office reports the present Director of the National Park Service said at the National Parks Advisory Board meeting in October, 1981 "That with all due respect to Mr. Cushman's concern, the GAO is not infallible. The National Park Service has serious reservations about many of the so-called facts and allegations in those reports and is prepared to rebut many of them."

We would ask, how many? Six reports over three years, requested by such diverse individuals as Congressman Philip Burton, Senator Ted Stevens, Former Senator Jacob Javits and Senator Daniel Patrick Moynihan, and done by several completely different teams from GAO make a significant statement. Which facts would they like to rebut? They got their chance in the GAO investigative process and were even asked to respond twice to the report ordered by Congressman Burton. We respectfully request that this Committee ask the Agency to respond to these reports.

To give you additional evidence of the cavalier disregard for the General Accounting Office, we offer these quotes by the current superintendant of Olympic National Park in a May 1981 issue of the "Seattle Post-Intelligencer": "So who is the GAO? They have an opinion. We have instructions from Congress." We submit that is the whole problem. The GAO says the Park Service does not understand what Congress intended or else deliberately does not choose to pay attention.

The same superintendant went on to say in the same article, when asked about Section 5 of the Olympic National Park Act which guaranteed full use and enjoyment to the landowners, said: The decision to create the park in 1928 was such a "closely fought one that the politicians probably overstressed the meaning of that term to calm people down. This is the only park I am aware of where the local people have a different interpretation of it."

We submit that the local people will never trust the Park Service or the federal government if they cannot rely on bureaucrats to follow what was promised when the legislation was passed. We also submit that protecting new areas will get progressively more difficult if the Park Service does not keep Congressional promises to existing areas. One further note on the superintendant from Olympic is that he was the first superintendant at Lake Chelan NRA and in no report was the GAO more positive that the Park Service did not act consistently with the intent of Congress than in the report on Lake Chelan NRA.

Preservation efforts across the country are being frustrated by the heavy-handed actions of the agencies. The law is simply ignored. In a personal interview the Associate Regional Director of the Northwest Region of the Park Service (Russ Dickenson had just been appointed Director) when asked why the Agency managed Lake Chelan like a park when the law said it was an NRA, said "Many of us thought it should have been a park." When pressed on the issue as to how they could simply ignore the law, he said in front of witnesses: "We thought it was a bad law."

The problem is continuing with the use by some Congressmen of line item Land and Water Conservation Fund appropriations to frustrate any effort by the Interior Department or the Park Service to prioritize land acquisition as suggested by the General Accounting Office. Sweeney Ridge in California is a perfect example of trying to force the Park Service to spend $9.6 million dollars to buy a piece of land the Agency didn't want in the Carter Administration, and does not want now. No matter that many other areas are more critically threatened, or that there are deficiency judgments coming up which may not be able to be paid. Somewhere we have to professionalize the Park Service and stop from making it a personal bartering ground for power hungry politicians.

For example, on November 14, 1979, the former Chairman of the Parks Subcommittee in the House was quoted in the Pacifica Tribune about the failure of the Interior Department to recommend Sweeney Ridge for inclusion in the National Park System. He said it "Won't have any impact at all on my committee and I don't think on the House." He also said he simply "didn't take very seriously" a report to the Congress in October 1979 from Secretary of Interior Cecil Andrus that held that Sweeney Ridge did not meet criteria for federal acquisition. The former Chairman at the time said he'd heard about the report "second hand.... it didn't make much of an impact. I didn't take it very seriously." He added that "three fourths of the parks bill" which passed recently didn't have the recommendation of the Park Service. "The Secretary of the Interior's recommendation won't have any impact at all on my committee and I don't think on the house...", he said.

This cavalier attitude in dealing with national parks is illustrated by an exchange between Congressman James Oberstar and Congressman Phil Burton with regard to the Upper Mississippi. It was reported in the San Jose Mercury News, July 30, 1978 that Burton went to Oberstar saying, "Jim, I'm going to get even with you one of these days. I'll make the whole (expletive deleted) eighth (Oberstar's) district a national park." "(Expletive deleted), I thought you already had." replied Oberstar.

The story continued: "Some of the exchanges between Burton and Oberstar may have been in fun. But not everyone in the house laughed." The Upper Mississippi Headwaters Board almost never had a chance to happen.

Another current problem is that of non-profit land trusts. While having a great deal to offer, they can and are being misused. In the Sweeney Ridge case cited earlier, the Trust for Public Land made a special side deal with the landowner, then mounted a political campaign to get the Park Service to buy the land. The Trust for Public Land was to pay $8.5 million and sell it to the government for $9.6 million. A situation had been created where it was financially beneficial to have a land trust rush to a landowner which the Park Service did not want to buy from, lock up a contract, then force the Agency to buy by political pressure, thereby hurting many other landowners or parks that were in a higher priority. In fact, with land trusts, we must consider if we haven't fostered a situation where the government is bidding against itself. In effect, through the use of political connections trusts use Land and Water Conservation Fund money to buy land and make a profit (at least in terms of paying tremendous overhead and salaries). This situation with Trust for Public Land has happened several other times that we are aware of.

The National Inholders Association has announced plans to establish a national land conservation trust to provide an alternative to the traditional trusts, and as an education tool for the use of alternative preservation strategies.

Presently there are 5,000 existing condemnations in process and many millions of dollars could be saved if, where possible and compatible with the park resource, these people were given the opportunity to keep their land but give or sell a protective easement or some other device to prevent adverse development. We have recommended to our members that they donate easements wherever possible. In every case we know of, the Park Service has turned them down.

Mike Shendrick of Indiana Dunes has been under condemnation for several years. He has offered to donate a protective easement on his $200,000 property with a home on it, but the superintendant said he would not accept it. There are several others like this case in Indiana Dunes. We are talking about 1981 and 1982--not a few years ago. This is going on right now.

In another case on the Appalachian Trail, Reverend Charles Evans offered the Park Service a free easement over his property. The Agency turned him down and then condemned him in the spring of 1981. An Interior Department team reviewed the case in September 1981 and said the Agency did not need fee title and that an easement was acceptable. Nevertheless, the man was forced to sell just before his trial date a few weeks ago and sold for $40,000 property the Agency could have had for nothing.

These same types of situations are going on all over the country. By encouraging the use of donated or low cost protective easements, this Committee could save hundreds of millions of dollars, protect resources faster and with less landowner hostility.

What I have just discussed does not paint a pretty picture. The preservation machine in the federal government is out of control and is only currently somewhat restrained by the lack of funds. The system for the wasteful practices is completely in place with no change. Six General Accounting Office reports have been completed but never sent by the Park Service to their field people who need to see them. There are numerous newspaper stories and magazine articles documenting the abuses. One film has been completed and another, a 90-minute special for television is close to completion. A network television show illustrated the problems in 1979. One book was just completed on the subject with another scheduled for publication in September. All these reports and yet little or no action.

There has to be an alternative. We think the Upper Mississippi Head Waters Board offers the best prototype for a solid, well thought out interlocal solution that is less costly, more responsive, enjoys public support and provides quality protection both for the resource and for the people.

We recommend that this Committee consider the following actions:

1. A system of grants to local planning agencies as a competitive system to balance the planning or study efforts of the federal agency when mandated to study any new area for inclusion as a national park or other federal area. Just as we do when considering new weapons systems for the military, good competition would be healthy and cost effective. The best plan would win out. Also, this process would teach local people a great deal about preservation strategies which would build public support and prevent a special alternative like the Headwaters Board from being bulldozed over in the legislative process.

2. That we consider a system of preservation zones with incentives for local communities and landowners not unlike what we are considering in the enterprise zone system for economic redevelopment.

3. Recommend oversight hearings in the land acquisition practices of the Park Service and Forest Service.

4. Oversight hearings into the management of federal areas and the frustration people and local government feel being managed by unresponsive, unelected, appointed bureaucrats. Resources are managed well that way, but not people.

5. Request a review of all current pending condemnations by the federal land management agencies to see which are appropriate by the new land protection policy of this administration.

6. Require that wherever remotely feasible, easements be used instead of fee title acquisition and that donated easements be accepted unless the land is required for some specific administrative purpose--a road or headquarters. Build in a system of incentives so that the local land manager is enthusiastic about the use of easements and feels that using alternatives will help his career as opposed to the situation now where he feels he is bucking the system if he uses easements.

7. That any future studies of potential federal areas include a socio-cultural study of the local people and their history by a qualified historian.

I appreciate the opportunity to appear here before you today and will answer questions you may have.

Charles S. Cushman
Executive Director

Attachment

[From the Wall Street Journal, May 25, 1982]

THE SILENT SCANDAL

Suppose the U.S. Army were buying a lot of land and asked Congress for $100 million when it knew the real cost would be closer to $500 million. Suppose it used arbitrary power to clear ranchers, retirees and summer homeowners off the land. Suppose it gave some people three months to vacate, and sent armed officers along with the appraisers.

Suppose furthermore, it couldn't get all the land it wanted at fair market value because of its grossly underestimated budget and so arranged with sympathetic local officials to slap zoning changes, building restrictions and the like on targeted parcels to force landowners to sell at its price.

And suppose that the boundary lines on these Army ranges kept changing to include some people, at their loss, and exclude others, at their considerable gain. That an internal investigation, after noting that a series of preliminary boundary maps were missing from the files, offered the official conclusion that it could find no documentary evidence of wrongdoing. And, to top it off, that all the land-buying served no overriding national purpose. We think there might be some public outcry on the situation.

Well, one major federal bureaucracy has been charged with just this pattern of behavior. It's not the Army, but that motherhood and apple pie outfit, the National Park Service.

Evidence has been mounting for years that something is very wrong in the way the Park Service has been taking private property to add to the vast federal land hoard (about one-third of the U.S. land area). The U.S. General Accounting Office has issued eight thick audits severely criticizing Parks and the Interior Department. Interior's own Inspector General recently completed a major investigation; Parks personnel, citing the summary, claim they were exonerated, but that hardly holds up when you look at the main body of the report.

In the Santa Monica Mountains east of Malibu and in the Cuyahoga Valley between Akron and Cleveland, Ohio, the Park Service has been assembling "national recreation areas" by means particularly vulnerable to attack. Landowners in the Santa Monica Mountains say they have been told by park officials on the scene that their property won't be taken, yet they have discovered it on acquisition lists filed in Washington. The local park supervisor has encouraged conservationist-dominated local boards to impose land-use restrictions on them, further adding to their anxiety.

The threat has become reality in the Cuyahoga Valley, a moderately scenic, semi-suburban area. Park officials promised to take only 30 homes but actually have condemned 300, converting the area into a strange, seedy landscape of boarded-up, decaying homes, weed-grown farms and tumble down roadside stands.

A few homes were spared. One expensive dwelling was occupied by a park official. The area encompasses the home of Congressman John F. Seiberling, chairman of the Parks subcommittee of the House Interior and Insular Affairs Committee, and one of the proponents of park expansion. It was not condemned. Department files reveal that the Congressman also succeeded in saving the homes of some of his neighbors.

These exemptions were made possible by "scenic easements," which allow owners to keep their land if they agree not to make changes that would affect the "scenic" quality. Congress indeed has encouraged Parks to purchase scenic easements rather than land. The unwillingness of park administrators to accept this guidance has been mainly responsible for purchase cost overruns. Congress authorized $155 million for the Santa Monica project; the Park Service now estimates costs could go to $700 million. The Cuyahoga acquisition went from $35 million to $70 million and the latest estimate, nearly three years old, calls for $100 million more.

The pattern is consistent nationwide. However the department's land grabbers feel about birds and trees, they seem to have little regard for people.

The personal anguish occasioned by Park Service takings played a large role in Interior Secretary Watt's decision to place a moratorium on land acquisition last year. Loud environmentalist outcries forced him to rescind his action. Just a few days ago, he issued a new directive to field staff to de-emphasize acquisition in favor of less costly means, like scenic easements, of achieving objectives. It remains to be seen how that will pay with his bureaucracy and its environmentalist constituents. It also remains to be seen how much relief already targeted homeowners will get.

The scandals of the 19th Century involved large private interests exploiting public land. Today, the reverse is true. Powerful public agencies exploit little property owners. Many in Washington will argue that the ends justify the means, but to us it looks no prettier.

[From the Wall Street Journal, Feb., 24, 1982]

Forest Service Presses To Reclaim Disputed Park Land From "Owners"

(By Ray Vicker)

Exeter, Calif.—Howard Coday and his wife Irene drove up to their vacation cabin adjoining Sequoia National Forest a few months ago and found a strange sight: a row of four-foot-high glass fiber stakes stuck in the ground through their property and that of their neighbors.

A month later they got an explanation: a letter from the U.S. National Forest Service. Property next to national parks is being resurveyed, the USNFS wrote. "It was discovered that a portion of your cabin . . . is actually located on national forest land."

The Codays were told to move a shed and various other structures by next July 15, and they were offered a "use permit" that would postpone moving the cabin. They are stunned. "I don't have enough property left to move my cabin," says Mr. Cody, a retired plumber.

Many thousands of other American property owners are in similar situation. The Forest Service is carrying out a long-term program to resurvey boundary lines along the 190 million acres of national forest land. And it is finding what it calls "encroachments" at the rate of 1.3 for each mile of boundary line surveyed, says a USNFS official. It is pressing to reclaim what it says is government land.

NOT EVEN AWARE

Charles S. Cushman is executive director of the National Inholders Association, a group that represents people living in or adjacent to national parks and forests. Thousands of people, he says, "may be in trouble for encroaching on public lands, and most of them don't even know it . . . yet. But they will. What we are seeing is only the tip of the iceberg."

Forty-five states have national forests (or, in a few cases, national grasslands), with the heaviest concentration being in 13 Western states. Of 272,000 boundary-line miles, the USNFS has surveyed 40,000 miles so far and found an estimated 50,000 "encroachments."

"There is no exact tabulation; we do know this is a serious problem," says Richard Hull, director of lands at the Forest Service in Washington. The service says it is required by law to take back land that it determines is government-owned. Occasionally land exchanges are made with the people involved. But the property owner challenged by the USNFS is in a bad spot.

DECADES-AGO DEALS

Boundaries for disputed properties often were set many decades and many owners ago, and often under illegal conditions, as with California's notorious Benson Syndicate of the last quarter of the 19th century. General Lands Office Director John A. Benson connived with a group of promoters to sell land with fake titles and doctored boundaries. Many of those frauds now are coming to light.

Sometimes developers took over old mining areas and cut them into lots, surveyed and sold hastily. "In the old days, poor surveys were made by developers on properties adjacent to federal lands." says Mr. Hull. "mistakes are being found when we resurvey our boundaries. In one location, we have acutally found a property line that was six miles off."

Some properties have been held by a single family for generations. The Maplesden family obtained property in the Klamath Forest in 1907 that now is disputed. Long-term ownership "doesn't seem to make much difference," says Loren Finch, an 87-year-old retired carpenter. He won a lot adjacent to Sequoia at a rodeo in 1924; the Forest Service now says that 30 feet of the lot, including part of a cabin, is on government property.

BUILDING A CASE

Forest Service surveyors use satellite photography, planes and helicopters, lasers and other modern paraphernalia. A USNFS property claim immediately puts a citizen on the defensive, clouding the title to his land (title insurance is unlikely to cover boundary disputes with the government).

Legally, the land owner may find himself in a position akin to that of the man who unknowingly buys stolen goods. The courts tend to favor the Forest Service. "It's almost impossible to win a boundary case against the Forest Service," says a San Francisco lawyer.

J. Ross Carter, a Redding, Calif., attorney, says: "You can win against the Forest Service if all your facts are right and supported by data. They make mistakes, too. But it can be very difficult to prove those mistakes."

Individuals given the opportunity to make a land exchange with the Forest Service buy a piece of land acceptable to the USNFS and turn it over to the agency, getting in return a clear title to the disputed property. By law, however, swapped parcels must be "of equal value," leaving small latitude for negotiation.

LEGISLATIVE ACTION

The complaints of aggrieved property owners are reaching Washington, D.C. Legislation was proposed in the last session of Congress that would give the Forest Service authority to alleviate boundary disputes by selling small parcels of land.

Various crippling amendments killed the bill. But it may be revived, with support from Western legislators. Some Senators have been suggesting private member bills for afflicted constituents, but that would affect only a handful of cases. (Such a bill may be filed to help Mr. Coday.)

New legislation could enable the Forest Service to resolve the most bitter disputes within a matter of months, suggests George W. Liddicoatt, a USNFS forester and Lands Group leader in Washington. "But," he says, "it may take us 10 years to clean up the backlog of cases still on our hands."

The Forest Service worries about getting a Simon Legree image. In one Minnesota case, a signed but uncorroborated statement from a witness claimed that the Forest Service "has been known to bulldoze or burn buildings on federal land." However, inspection of letters from the service show them to be firm but courteous.

CHEAPER NOW

"A portion of one of the buildings on this lot is located on land owned by the United States. By moving it now the expense of doing it at a later date will be greatly reduced," says a letter from Minnesota District Ranger Reinhold C. Chase to James W. Love.

Mr. Love bought a home on Bluewater Lake in the Chippewa National Forest in 1978. A Forest Service survey established a new boundary cutting through the middle of the $100,000 house. The house sits on a bluff above the lake. "It can't be moved without sliding into the lake," says Mr. Love.

In January, the USNFS offered Mr. Love and his wife Carolyn a "use permit," specifying that within three years they must exchange a suitable land parcel with the service to resolve the dispute. But Mr. Love has heard that land exchanges take up to eight or nine years to resolve—and that the USNFS rejects 80 percent of land-exchange proposals.

Mr. Love would like to sell the property, but the government claim clouds his title. "We don't know what we are going to do," he says.

[From the Washington Post, June 4, 1980]

ONE MAN, ONE PARK

When the largest parks bill in the nation's history worked its way past the Senate in the closing days of the 95th Congress, there was considerable bantering about it on the Hill. Some members even wondered out loud if parks were replacing water projects as the favorite items for politicians to take home. The bill authorized spending about $1.2 billion on more than 100 parks and preservation projects in 44 states.

The 96th Congress is showing no sign of trying to approach that record. But the House recently approved three bills authorizing about $130 million for 22 projects in 14 states. It did so without any serious floor discussion of any of the projects and after its leaders had turned aside a request from the Interior Department for a delay on the omnibus bill that involved 20 of them. A spokesman explained that the department didn't know whether to favor or oppose these projects because it hadn't reviewed all of them.

The new units that will be added to the park system if these bills become law include two new national parks, Kalaupapa in the Hawaiian Islands and Irvine Coast in Orange County, Calif.; two historical parks, one recognizing women's rights and one Chaco culture; and four historical sites honoring James A. Garfield, Georgia O'Keefe, Martin Luther King Jr. and Mary McLeod Bethune. Land would also be added to such existing park preserves as Harpers Ferry, Monocacy Battlefield in Maryland, Richmond (Va.) Battlefield and the Lyndon B. Johnson historical site in Texas.

In addition, the bills direct the Interior Department to recommend sites for memorials to former President Gerald R. Ford and the late George Meany, to erect a plaque or monument at Assateague Island to commemorate the late Rogers C. B. Morton, and to name the water behind Norton Dam in Kansas the Keith Sebelius Lake. Mr. Sebelius, who is retiring from Congress in January, is the ranking Republican on the parks subcommittee.

These projects may—or may not—be individually worthy additions to the park system. But members of the House who voted for the bills almost 3 to 1 could hardly have known whether they were. The committee reports justifying the plans had not even been printed when the bills were up for debate.

The number of units under the control of the Park Service has increased so rapidly—10 percent since early 1977—that it is hard for anyone to keep up with them. The big ones, like those now in dispute in Alaska, receive close scrutiny. But many of the little ones do not—especially if they are tucked away in omnibus bills like that passed in 1978 and the one now pending.

The national park system shouldn't be toyed with this way. Its good parks are so exceptional that the public expects near perfection wherever that Park Service sign hangs. This reputation should not be diminished by minor additions designed mainly to spread, geographically or politically, the federal dollars spent for recreation and preservation. If the Senate applies that standard when it reviews the projects proposed recently by the House, it may—or may not—approve them. But it would be nice to know that those it approves had at least been carefully screened.

[From the Caledonian-Record, St. Johnsbury, Vt., July 5, 1980]

IRRESPONSIBLE LEGISLATION

Most Vermonters probably have no idea what an in-holder is. An in-holder is a person who owns land within the boundaries of a national park, national forest, or other publicly owned tract of land. Over a million Americans fit the description of in-holders, and of that million the most badly used are those whose private land lies within or adjacent to a national park.

The National Park Service has a long-standing policy about inholdings and inholders. It wants to get rid of them by all available means, and it has used some really shocking techniques to get rid of them. In the Cuyahoga Valley between Akron and Cleveland, for instance, the Park Service condemned hundreds of private homes to make a National Recreation Area. Then it let the empty homes stand there for years, while the yards and fields grew up to brush. In a few cases, it even refurbished the confiscated homes and rented them out to new tenants.

A key promoter of the Park Service and its practices is the chairman of the House Interior Committee, Rep. Phillip Burton (D-Calif.). In May he introduced a bill to acquire more federal land around Lake Tahoe, on the California-Nevada border. Three days later the bill was amended in Burton's subcommittee to confiscate private homes on the California side of the lake. Two days later Burton's committee reported the bill. No copies of the bill had been made available to the 65,000 local people directly involved, and no public hearings were ever held until the bill was well out of committee and awaiting House floor action.

By the same kind of reckless procedure Burton's "Parks Omnibus Bill", affecting the property and the rights of citizens in more than a dozen parts of the country, was rushed through the House. No real public hearings were held; no notification was sent to the people in the areas affected.

This is the kind of procedure that rightfully gives the U.S. Congress a bad name. Happily, Vermont's Congressional delegation has taken pains to make sure that any legislation directly affecting Vermont lands has had full public hearings here in the State. All three of our present delegation should insist that no measure, dealing with any part of the country, be advanced until the citizens affected have had the same kind of opportunity to speak their piece that Vermonters have long demanded. And it's about time that other members of Congress told Rep. Burton that they will automatically oppose anything his committee proposes, until they are satisfied that the demands of fair play have been scrupulously observed.

[From the San José Mercury News, July 30, 1978]

PHIL BURTON: THE "BENEVOLENT STEAMROLLER" OF WASHINGTON

(By Gil Bailey)

WASHINGTON, D.C.—Rep. Phillip Burton (D-San Francisco) stood on the floor of the House at the microphone, black-rimmed glasses pushed back on his forehead, his face reddening, lips drawn down in exasperation, voice croaking.

It was the third day of House consideration of his $1.3 billion omnibus parks bill, and he knew he was going to win big if he could just get a final vote.

Earlier, conservative Rep. Robert Lagomarsino (R-Ventura), not often an ally of Burton, had described the San Franciscan as a "benevolent steamroller" in his handling of the legislation. The "benevolent" may have been due to the inclusion in the bill of a much-wanted part in Lagomarsino's district.

Another member of the House, not quite so kind, said Burton, in pursuit of a legislative victory, reminded him of a "locomotive in heat."

Now Burton on this hot July day swatted down one amendment, agreed to a second, allowed that a national park could be named after a dead senator, Paul Douglas, and a dead pirate, Jean Lafitte. He pushed and shoved—and at last the final vote came.

The biggest park bill in history—nicknamed "park barrel"—passed 341-61. It was a cinch. After all, it had something for 44 states, Guam, Saipan and the Virgin Islands, more than 100 projects in all.

Much more than a majority of House members benefitted from it, and Phil Burton, who had put it all together, knew there was no way it was going to be defeated.

And that's why Phil Burton is a rarity, a California congressman with clout.

After the park bill vote, Burton briefed the press, calling it "the most important conservation vote of the decade," except for the Alaskan Lands Bill which sets aside much of Alaska for conservation purposes.

Burton may have been right in his estimation of the park bill. In Texas there had been a 20-year drive to save the Spanish missions near San Antonio. The bill saves the mission. On the Delaware River, there had been a bitter fight over construction of a dam. The bill kills the dam. In California there had been a long-standing effort to create a Santa Monica Mountains National Recreation Area. The bill creates that area.

"If I'm going to waste money, why not waste it on parks," said one Burton supporter. But, obviously, the legislation does much more than that. In fact, in terms of impact, it makes Burton one of the most important conservationists since Theodore Roosevelt.

Burton, however, is an unlikely conservationist. He is a chain smoker, far more at home in a smoke-filled room with drink in hand than in a pure redwood forest or beside a mountain stream. He puffs as he walks and, if he has ever held a conversation without discussing politics, it isn't on the record.

But Burton is chairman of the parks subcommittee of the House Interior Committee, and he is an activist. So, if he heads a powerful conservation group, then he is going to pass the biggest conservation bill he can.

At age 52, Burton has come a long way in his search for power. His first attempt at winning political office failed when he was beaten in a California Assembly race. By a dead man.

But he did win on his second try, serving in the State Assembly from 1956 until he entered the U.S. House of Representatives in 1964.

He did not immediately become a power in the House. Burton was among a lonely little band of liberals, some called them "ultra-liberals," who fought involvement in Vietnam before that stand was popular. Burton also fought for civil rights for blacks. when that wasn't too popular, and he was for liberal social programs. He and such fellow Californians as Rep. Don Edwards (D-San Jose) and George Brown (D-Colton) formed a tight little group in the late 1960s that fought for such causes as abolition of the House Un-American Activities Committee, and sponsored conferences on such subjects as "War Crimes and the American Conscience."

During the 1960s and early 1970s they rarely won their battles.

But Burton was not typical of the liberals. He is a student of the Lyndon Baines Johnson school of political persuasion. He knows how to twist an arm or make a trade. He began to win his battles.

He arranged a trade-off among House members from cotton states and members from areas where labor is powerful. The cotton folk voted for food stamps for strikers, and the labor people voted for cotton subsidies.

He slugged away at a "black lung" bill to aid coal miners and saw the bill passed. He restored cuts in aid to families with needy children.

Little by little, Burton built a legislative reputation much more impressive than that of many senior members of the California delegation. At the same time, he began to climb the stairs to power in the House. He became chairman of the Democratic Study Group, an organization of liberal members of the House, and then he became chairman of the House Democratic Caucus, which tries to set Democratic policy.

He wanted more. In 1976 he ran for House Democratic Majority Leader, next to the speaker the most powerful post in the House. He lost by one vote to Rep. Jim Wright of Texas.

In part, he lost because of a divided California delegation. His margin of defeat came from the five or six California Democrats who hate Burton more than they love the idea of a Californian being the second most powerful man in the House.

Burton may try again for majority leader in 1979. "We're counting the votes," he says, "and if they are there, we'll go."

Part of his vote-counting, of course, involves the parks bill. He did a lot of members of the House favors with that package.

But Burton's strengths, as well as his weaknesses, could work against him. His drive is continuous. He never stops, and that makes some of his fellow House members nervous. And when he wins, somebody else usually loses.

In addition, he has a reputation as a "wheeler-dealer" in legislative battles in the House. His financial records show little personal wealth and, as he told one old friend, "If I didn't take Moscow gold at the start, I'm not going to take fascist gold now," referring to at least tacit Communist Party support at the beginning of his political career.

His tactics worry some colleagues. "I just can't see us voting on the agricultural relief bill for New York City," said Rep. Norman Mineta (D-San Jose) one day in talking about what Burton might do as majority leader, or even as speaker.

There also is some truth in the observation of conservative Rep. John Rousselot (R-San Marino): "Burton scares people," he said.

They may have reasons for fear. Take the case of Rep. James Oberstar (D-Minn.), whose constituents love to ride in snowmobiles. Oberstar came before Burton last spring to argue that the use of snowmobiles shouldn't be forbidden in much of the Boundary Waters Canoe Area in northern Minnesota.

There are 35 members of the Interior Committee. "How many amendments do you have?" asked Burton. "How many proxy votes do you have?" asked Oberstar. "Twenty-two plus my own," said Burton. "Then I haven't got any amendments," said Oberstar.

No snowmobiles for the canoe area, also no motor boats.

Oberstar fought Burton on the parks bill, too, winning a couple of amendments this time.

After that, Burton went to Oberstar, saying: "Jim, I'm going to get even with you one of these days. I'll make the whole (expletive deleted) eighth (Oberstar's) district a national park."

"(Expletive deleted). I thought you already had," replied Oberstar.

Some of the exchanges between Burton and Oberstar may have been in fun. But not everyone in the House laughed.

Phil Burton can create a Santa Monica National Recreation Area, enlarge Redwood National Park, get San Francisco's beaches swept by the federal government, change the form of government in the American Trust Territories, and make trades that effect social legislation touching the lives of millions of Americans.

But he may never get the leadership post he desires.

RIVER CONSERVATION FUND
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TESTIMONY OF
ROBERT C. HOFFMAN, DIRECTOR
RIVER CONSERVATION FUND
before the
SENATE GOVERNMENTAL AFFAIRS COMMITTEE
INTERGOVERNMENTAL AFFAIRS SUBCOMMITTEE
JUNE 1, 1982

Thank you, Mr. Chairman and members of the subcommittee, for giving me the opportunity to make known the views and information of my organization. The River Conservation Fund is a national nonprofit research and education center which is dedicated to the preservation of free-flowing rivers and to expanding the opportunities for conserving river corridors.

I have been asked to present information concerning specific avenues the federal government may pursue to encourage river conservation activities and programs on the part of state and local governments and the private sector. This statement presents a number of specific suggestions, some of which already exist but are under-used by the agencies. Others would require specific approval by Congress. However, I first would like to share with you briefly our assessment of the current state of the art in conserving rivers.

The River Conservation Fund believes that support for protecting rivers has never been higher. People recognize the specter of problem development when they see it, and they appear to be well aware of man's unceasing efforts to degrade the environment. My conversations with landowners and residents along dozens of rivers in the Midwest and Southeast that are still of good quality indicate that the majority of these people love those rivers, see them as an integral part of their lives, and want to see them protected from adverse development. Unfortunately, shopping for appropriate preservation plans is often a fruitless process.

There have not been very many different programs for protecting rivers until recently. The largest and best known is the National Wild and Scenic Rivers System. Authorized in 1968, the National Wild and Scenic Rivers System encompasses 61 river segments and systems totalling 6,916 miles in length. It provides for wild, scenic and recreational classifications, depending on the level of development, and provides for appropriate management thereto. Most of the rivers in the system are of a relatively pristine nature, and many of the river corridors run through land that is mostly or wholly federally owned.

The Act was very farsighted in that it recognized that river conservation planning could be accomplished on a small budget; it anticipated the patchwork quilt of public and private ownership patterns in river corridors; it set limits on the amount of federal fee title land acquisition; it permitted the liberal use of less-than-fee options; and it promoted the creation of complementary programs on the state level. This law still provides the most far-reaching protection from urbanization and water projects.

The second river protection option exists at the state level. Currently, at least 30 states operate a wide variety of river programs which encompass at least 295 rivers totalling 12,644 miles. While this figure sounds impressive, the programs seldom are. Many states have no line item budgets, and if funded at all, operate with general agency funds on borrowed time. Few buy land or easements. As with any program that suffers from insufficient staff, enforcement and protection actions are scarce in many states. However, a few states operate very successful programs, notably Minnesota, Michigan and California.

Protection planning at the local level is spotty, to say the least. A few streams such as the Platte River in Denver, the Blackfoot in Montana, and the Saco River in Maine have been protected by means of public/private joint agreement, but such examples are extremely rare.

Some indirect federal, state and local river protection has been accomplished via such programs as the Clean Water Act, the National Flood Insurance Program, national and state park programs, greenbelt parks, and local zoning plans. However, by and large this assistance is very indirect and of marginal value.

The most river conservation work by far is accomplished by the private sector. Formal programs such as the Nature Conservancy's Rivers of the Deep South Program are operating successfully as land trusts in many parts of the country. By necessity the priorities of organizations such as the Nature Conservancy are pointed toward the protection of rare and vanishing natural features. Formalized watershed associations operating in the Northeast protect approximately five dozen rivers and creeks in that region, but few exist anywhere else. The most common groups working to protect river corridors are those groups of landowners and conservationists organized into penniless, oftentimes ad hoc entities known by names such as Save the River, Committee of Paint Creek, Friends of the River, or the Wildcat Creek Federation. These are groups organized more often than not to prevent some development from taking place. They would like to find some formalized, minimally obtrusive protection plan, but they are hard to locate.

This is the general picture of the effort nationally to conserve rivers.

Even with these limited albeit gallant efforts, problems have arisen. Federal land management agencies sometimes have a propensity for taking more land than may be necessary. If the potential scenic river designation does not fit it with an agency's existing management scheme, the study to determine eligibility may be contorted so that the proposed management plan enrages everyone, thus precluding designation. Agency problems in conducting land acquisition have become legendary. Some preservation plans have become recreation plans, thus changing the character of the valley. Nonfederal plans are vulnerable to certain water project development programs because of their lack of teeth or their inability to supersede actions by the federal government. A good example of this is that the Public Utilities Regulatory Policies Act (PURPA) allows the Federal Energy Regulatory Commission to overrule state river protection plans in order to issue licenses to developers to construct low head hydroelectric dams.

The net result of these problems is that landowners are victimized and enraged, local governments and state agencies become upset, and the entire protection process fails.

None of these problems are insurmountable. I believe the future of river conservation is still bright, far brighter that all that has passed before. However, in order for that future to reach its potential, several facts of life must be acknowledged by the government and the public:

1. River conservation is a shared responsibility. Plans must be developed jointly and in good faith by all levels of government and the private sector. This attitude of cooperation will be the most important factor in determining the future of stewardship planning.

2. The rampant hostility to federal programs and government at all levels will recede very slowly. New programs will work only if they feature signifcant local decision-making, minimal land acquisition and if agencies exhibit flexibility and compassion in their programs.

3. River conservation plans must be allowed to find their own levels. Some plans have failed because the level of protection exceeded what the local community was willing to accept. There is no reason that a river cannot move up the ladder at a later date if the community comes to trust the program and determines that it needs additional help. We may need to forego the concept of preserving natural areas for "posterity" for the time being. Posterity is a very long time.

4. Future river conservation plans will be aiming at rivers which are predominantly in private ownership. They will be a mixture of parks, recreation areas, farmland, forest, urban areas, historic sites and open lands. These corridors may have sporadic or significant population and development levels, and this habitation will be deeply interwoven with the natural resources of the area. These cultural landscapes will be an integral part of the uniqueness, the features and the aura of these valleys, and they will be found to contribute to the economic and environmental well-being of the regions in which they exist. After all, are not most river protection programs designed to preserve the character of valleys as they now exist, rather than the primeval forests and open spaces they were centuries ago?

5. Although the relationships between various levels of government and the private sector in conservation are not explicit, in general the stewardship role should be assumed by the lowest

possible level of government that is willing to pursue minimum standards for natural resource quality. In this situation the National Park Service could be limited to provide technical assistance upon request to private river protection organizations, and local and state governments.

A number of hopeful models have been approved which may well be strategies of the future. They are primarily state and local initiatives which feature federal legislation and/or technical assistance as extra protection and support options. Some of them are:

1. The Upper Delaware National Wild and Scenic River (PA,NY). Added to the system in 1978, the Upper Delaware is protected by a network of federal, state and local governments which use the National Park Service as the lead planning agency in developing a management plan suitable to the governments and the Upper Delaware River Citizens Advisory Committee.

2. The Little Miami River (OH). The Little Miami flows between the populated areas of Dayton and Cincinnati. A group known as Little Miami, Inc., began working to save the river in 1967. By 1969 it was added to the Ohio Scenic Rivers System. In separate actions in 1973 and 1980 the river was added to the national system by order of the Secretary of the Interior. The citizen group and the residents pulled this river up by its bootstraps to enable it to meet protection requirements.

3. The Farmington River (CT). The National Park Service instituted at the request of the state and the local watershed association a cooperative technical assistance study to identify private landowner and local government techniques to conserve 78 miles of the river. This rather inexpensive study is being

conducted as an alternative to a study authorized by Congress under the National Wild and Scenic Rivers Act.

4. The Appalachian National Scenic Trail (Maine to Georgia). This trail, which stretches over 2,000 miles, is managed and maintained almost totally by private nonprofit groups and agencies. This cooperative management system is recognized and endorsed by the National Park Service in the area's Comprehensive Plan and represents one of the most significant examples of landowner, conservation group, and local government joint projects in the nation. The private effort saves the federal government more than one million dollars annually. It also is a pioneer in the use of less-than-fee land protection alternatives.

5. State of Oregon Senate Bill 397: A Riparian Area Protection Act. SB 397, passed by the Oregon legislature in August 1981, provides two mechanisms to encourage the maintenance and/or rehabilitation of privately owned riparian areas: an ad valorem property tax exemption for riparian lands that are protected or enhanced, and a 25 percent personal or corporate income tax credit for costs incurred in fish habitat improvement projects.

These models are only a few of the strategies which could be made available during the coming years. We believe that the surest way to promote financially efficient, humane, and environmentally sound state, local and private conservation activities is to authorize or expand the use of a variety of financial and nonfinancial incentives. River Conservation Fund believes the financial costs of these incentives would amount to only ten percent of the current federal costs for studies and operations of designated scenic rivers. Some of these incentives were submitted to Congress for legislative consideration in 1980 in H.R. 7953, known as the State Wild and Scenic Rivers Planning and Preservation bill. The bill proposed three financial and one nonfinancial incentives for state river planning. The bill provided for the following:

1. The establishment of a program of special grant assistance to state and local governments for the acquisition of key riverfront properties. Such funds would require a twenty percent nonfederal match.

2. The establishment of a loan and loan guarantee program to state and local governments to allow for the acquisition and subsequent resale for compatible uses of lands associated with protected rivers. Essentially, this would provide seed funds for a governmental revolving fund.

3. The establishment of a similar loan and loan guarantee program for nonprofit organizations with a demonstrated commitment and capability to use funds to establish land trusts and revolving funds.

4. This bill also directed federal agencies to avoid adversely impacting river segments receiving assistance under this bill or protected by federal, state or local programs. This language would constitute a very valuable and powerful set of protections for nonfederal programs.

In addition to H.R. 7953 there exist a variety of other alternatives which should be considered:

5. The institution of a grants program administered by the National Park Service and operating under an amendment to the National Wild and Scenic Rivers Act. Small grants in the $2,500 to $10,000 range could be made to local governments along a

federally designated river to help defray planning costs associated with the river and the management plan development. Such funds would be matched on a one-to-one basis.

6. The authorization and appropriation of specifically authorized grants to state and local governments in order to conduct low cost studies on rivers of national interest such as national study rivers or rivers appearing in the final edition of the National Rivers Inventory. This program would provide greater local control, reduce costs and encourage more participation in the process by local interests. Such funds would be matched on a one-to-one basis by local entities. In fact, River Conservation Fund believes that no grant funds should be offered to local or state governments without a one-to-one matching cost share.

7. The establishment of river commissions composed of interested citizens and governmental delegates should be encouraged for all rivers appearing in the final edition of the National Rivers Inventory or which are included for study or designation in the National Wild and Scenic Rivers Act. These commissions would be drawn from members of the landowners along the river segments, local government and planning agencies, state agencies, conservation, cultural, recreational, and sportsmen groups and so forth for the purpose of encouraging in an ad hoc fashion the beginning of local discussions and planning processes to initiate river protection agreements and legislation.

8. A ruling issued two years ago which apparently has been interpreted in conflicting ways region to region changed the eligibility guidelines for use of Land and Water Conservation Fund planning grants. As interpreted in the Northeast, it permits state governments to give financial grants to local governments and private groups to develop resource management plans. Although

this alternative has been seldom used, the states of Maine and Massachusetts have funded seven such projects. It has been well received by local governments and is an alternative to more formal and expensive state river studies.

9. The national reserve approach should be continued and expanded. This greenline park strategy brings all governmental authorities and private interests together under a single umbrella to manage areas in a flexible manner. This format creates a viable partnership between government and the private sector and helps to target funds toward the highest priority uses within the management framework. One such example is the Pinelands Commission in New Jersey.

10. Federal land management agency guidelines, policies and regulations should be revised to require the assessment of social and cultural values and dynamics of a targeted area before initiating specific protection efforts. Such an action will move the agency to shape its management plan to fit the existing social structure and to bring into the decisionmaking process local landowners and community leaders. This effort would reduce local hostility, reduce the higher operating costs brought on by local hostility such as condemnation costs, public relations costs, vandalism, and the potential loss of existing federal investment due to the demise of the project. Essentially this item recommends that the agencies treat the local folks right. Had some other federal development agencies done this, there would exist dozens more federal reservoirs, more room on the federal district court docket, better public images of these agencies, lower project costs, and better long term prospects for the agencies.

11. The National Wild and Scenic Rivers Act could be amended

to either delete the "recreational" classification which now exists and which terrifies local property owners along segments designated as such, or add the classification of "natural" to signify an undeveloped or unspectacular river segment in a fasion which does not promote recreational development in a private property area.

12. Make it clear that federal government natural resource management initiatives in most instances should only be undertaken where there is a strong and "up front" commitment by local governments to conserve an area. These commitments should be tied to the acceptance and support of clear national objectives.

There are two final pieces of legislation which should be closely considered. One is the continuation of funding for the National Park Service's Rivers and Trails Program and most particularly its Natural Resources Planning Division. The second is the continuation of funding for the Land and Water Conservation Fund.

The Natural Resources Planning Division is the section which has been providing the low cost technical assistance and planning support to local governments, the states, and private groups that has been mentioned throughout this testimony. This small group of people has already begun to move down the paths which we are examining today. There is no advantage in building state or local programs if the administrators have no where to turn for advice. We recommend strongly that funding for the Rivers and Trails Program be maintained.

The Land and Water Conservation Fund has been the major source of federal funds for state and local recreation and conservation acquisition and development. These are also the funds used by state agencies in Maine and Massachusetts to match local funds for the purpose of developing natural resource management plans on the local level. They are the types of plans completed on a very low budget with the considerable grass roots support and assistance of the community. Its value to future river conservation planning activities is extremely high.

We believe that river conservation will continue to be one of the most democratic of all the preservation planning efforts. It is ideally suited for low budgets, the development of public support, the active participation in decision-making of those who are directly affected, and flexible protection for some of the nation's most vital resources. It has the great advantage over many other protection programs of not requiring that adjacent lands be "locked up" under federal ownership, that the character of the valley can be maintained as is, and that the level of protection in ratio to the level of federal investment is extremely favorable. We believe that down the road we will see many more local river programs which operate closely in conjunction with nonprofit private sector protection and land trust groups. Minor actions by the Congress could produce wonderful results in the very near future.

We hope that the subcommittee will continue to seek our advice on this topic in the future. We would also like the opportunity to extend our remarks.

Thank you for the opportunity to participate in this hearing.

TESTIMONY OF JOHN MAXWELL ON BEHALF OF THE NATIONAL ASSOCIATION OF COUNTIES ON LOCAL INITIATIVES TO NATURAL RESOURCE MANAGEMENT BEFORE THE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS OF THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS, JUNE 1, 1982.

Mr. Chairman and Members of the Subcommittee:

My name is John Maxwell and I am a Public Lands Specialist at the National Association of Counties.* In my work I report to county governments about developments in the areas of federal land management and natural resources management.

NACo greatly appreciates the opportunity to testify on local initiatives to natural resource management and the Upper Mississippi Headwaters Board as a management alternative. This successful joint county approach to river management proves that counties, as well as the federal and state governments, should be involved in the management of our nation's natural resources. In the last two decades many solutions in natural resource management have been sought in Washington, D.C.. But counties are also able to come up with innovative and creative solutions. Today I would like to open the county case book for you to look at some proven innovations in the management of natural resources. I am here to suggest to you that county solutions are in many cases viable alternatives to federal control of natural resources.

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* The National Association of Counties is the only national organization representing county government in the United States. Through its membership urban, suburban and rural counties join together to build effective, responsive county government. The goals of the organization are to:

- improve county governments;
- serve as the national spokesman for county government;
- act as a liaison between the nation's counties and other levels of government;
- achieve public understanding of the role of counties in the federal system.

NACo believes that counties have an important intergovernmental role to play in planning and managing the uses of natural resources. County officials have been elected to represent and express the economic, social and environmental concerns of local citizens directly affected by natural resource management decisions. Counties have land use planning and zoning authority where many significant natural resources are located.

So, counties have an important stake in natural resource management decisions. The literature of resource protection has long noted that local exercise of the police power has advantages in comparison to costly fee simple land acquisition. The key element to the creation of the Upper Mississippi Headwaters Board was the confidence of the local government units that they could and would exercise effective police power controls to preserve their part of the Mississippi River for future generations.

In the Upper Mississippi situation the negotiation between the federal government and the counties about the management of the river resulted in a strong management plan. Counties want to explore new kinds of partnerships like this with the federal government in natural resource management, but on one point they are firm: where new federal land acquisition is proposed there must be the consent of the affected county governments. The reliance by counties on the property tax underscores the impact federal land ownership has when it leaves counties with a diminished tax base. Because of potential tax base effects the National Association of Counties does not support the designation of federal wild and scenic rivers without the agreement of the affected counties. Additionally, all federal wild and scenic river management proposals must be consistent with local land use plans.

The Upper Mississippi Headwaters Board approach illustrates the cost effectiveness of local police power controls in contrast to federal control by condemnation, purchase, and easements. The Upper Mississippi effort is the most ambitious multi-county resource protection scheme to date. The fact that it is being implemented successfully speaks highly of county government in the State of Minnesota as well as all of the many individuals who helped to shape the plan. Last year NACo recognized the importance of the eight county Upper Mississippi plan by adopting a resolution of support at our annual meeting.

County government today is an exciting place for creative ferment in the management of natural resources. Many of the new approaches being tried by counties in various aspects of natural resources management may be transferrable to resource management situations outside of the field that they were originally developed for. New techniques being applied in farmland preservation may also have applications in river management. And the Upper Mississippi approach may have applications in other fields.

As an example of a sophisticated county resource management process, consider the overlay district system developed by Jefferson County, Colorado to supplement its zoning map. Overlays have been adopted for geologic hazards, floodplains, and wildfire hazards. The hazard areas impose an additional restriction on how the land may be used. In general, the existence of a hazard district precludes the construction of buildings or any change in the use of the land which would significantly increase the danger from environmental hazards. The overlay system is intended to reduce the demands for public expenditures for relief and protection of facilities permitted in designated districts and will help minimize the danger to public health and property from environmental hazards.

Some of the most significant innovations in land management by counties have come in the area of agricultural land preservation. You may be familiar with the Montgomery County, Maryland farmland preservation program. It helped to pioneer the concept of a development rights bank to help support a market in transferable rights. People in Minnesota have heard about Olmstead County's innovative and practical application of the cluster zoning concept to agricultural areas for the preservation of prime farmlands. Multnomah County, Oregon has successfully required farm and forest management plans as a condition of subdivision. This presents landowners with options about the use of their property that may not have occurred to them.

In certain situations counties have worked directly with developers or industry to allow private and public purposes to be carried out at the same time. For example, in Montgomery County, Ohio an agreement between the county and a limestone mining company allows lands to be reclaimed for public recreation, while quarrying continues, in other parts. The land was purchased by the county and the company pays the county a royalty for all limestone removed in return for the right to continue mining for 10 years. Reclamation has been a joint public/private effort. The focus of the park is water-based recreation on the lakes formed by the old quarry sites.

Counties also are working with private resource preservation groups. DeKalb County, Illinois was able to purchase needed land at a reasonable price with the help of the Nature Conservancy. The Conservancy agreed to purchase the property and hold it for up to three years, allowing the county to raise funds. Through this arrangement the county purchased a 45 acre Boy Scout Camp with 8 existing facilities and river access.

In the area of water resources management, counties have worked successfully with federal agencies. In its study "A River of Green," King County, Washington provided the U.S. Army Corps of Engineers with guidelines concerning recreational opportunities and riverside lands which might be included in the Corps' proposed levee improvement project to conduct a much broader study.

The report considered the river's hydrology, significant habitat, environmental regulations, guidelines for riverside land use, and schematic plans for potential park sites. The report also considered non-structural alternatives to the construction of levees for study by the Corps. Unique to planning studies, the final report contained recommendations for detailed implementation actions by agencies at each level of government -- federal, state, county, and municipal.

At least one county was actively pursuing a river preservation program back at the time when rivers were first beginning to be entered into the federal wild and scenic rivers system. In 1972 the county commissioners of Palm Beach County, Florida adopted a land use plan that identified the Loxahatchee River as a conservation/preservation area. Since that time the river area has been studied, the landowners met with the county to discuss a draft protection proposal, and a $1,900,000 purchase of river corridor land has been concluded.

In summary, county government has much to offer as a vehicle for the protection of natural resources. It has been my distinct pleasure to provide you with the examples I have presented today. I want to thank you for the opportunity to testify. I will be glad to respond to any questions you might have.

Senator **Durenberger**. We next have a State panel made up of State Senator Bob Lessard, who has been referred to here today; Mr. Ford Robbins, who also has been referred to earlier, will address the subject of how State and national citizen concerns are met through a local program; Mr. Bob Hansen, who is the executive director of the Legislative Commission on Minnesota Resources; and Mr. Joe Alexander will bat cleanup on this panel. He has been involved in everything we will talk about, or could talk about, in terms of natural resource management, and all the examples I talked about earlier in the commission of resources during the last 4 years.

So, as soon as Senator Bob Lessard settles down, we will let him be the first.

Mr. **Lessard**. Better snap this one for prosperity. [Laughter.]

Senator **Durenberger**. Senator Bob, you are up first.

Mr. **Lessard**. Oh, am I up?

Senator **Durenberger**. Yes.

TESTIMONY OF BOB LESSARD, STATE SENATOR FOR MINNESOTA'S LEGISLATIVE DISTRICT 3; FORD M. ROBBINS, ATTORNEY, MEMBER OF MISSISSIPPI HEADWATERS BOARD, CITIZENS ADVISORY COMMITTEE, PAST PRESIDENT OF THE NORTH STAR CHAPTER OF THE SIERRA CLUB, MINNESOTA; JOSEPH N. ALEXANDER, COMMISSIONER, MINNESOTA DEPARTMENT OF NATURAL RESOURCES, ST. PAUL, MINN.; ROBERT E. HANSEN, EXECUTIVE DIRECTOR, LEGISLATIVE COMMISSION ON MINNESOTA RESOURCES, ST. PAUL, MINN.; AND ANDY GOLFIS, COORDINATOR, GREAT RIVER ROAD PROGRAM, MINNESOTA

Mr **Lessard**. Mr. Chairman, I just want to thank you for the opportunity to testify before the Intergovernmental Relations Subcommittee. My remarks will be very short. I just want to focus on a couple things we attempted to do in the State legislature as far as the Upper Mississippi Headwaters Board is concerned. So I will focus my remarks and statements on the process as it affected the headwaters program.

First, let me say from the onset that individuals, including some legislators, were skeptical about the project in the first place. It was initially described by some as being a sham. I even heard worse. They said, "You will not be able to do it. You will not be able to get the counties together. You won't be able to protect the river. You are here just to keep the Federal Government off your back." When I first talked to the county commissioners—in this room, I believe—I think we all came to the conclusion that whatever we did, we had to do it to protect the river or it wasn't going to wash. And we did it.

Regarding the legislative process, the need for State legislation arose as a result of the negotiated settlement between the Mississippi Headwaters Board and the National Park Service. We did take some of the concepts from the National Park Service which we thought would fit into our plan. The point is, the Board decided on what concepts would or would not work.

Further, we have one unique difference in ours as opposed to the Federal Wild and Scenic Rivers System and the State Wild and

Scenic Rivers System. That is, nowhere included in our legislation is the right of eminent domain or the right of condemnation. We operate solely on a willing buy and willing sell basis. As I understand it, the board comes to the inclusion of a certain area that may be unique. They may want it for one purpose or another. If, in fact, that particular landowner chooses to sell to them or chooses to negotiate a land exchange, whatever, so be it. If he does not, it will not be acquired.

I introduced senate file 2 [1] and Representative Don Samuelson of Brainerd introduced the one in the house, house file 510. By the way, I wish Roger Moe hadn't left here. It was to be senate file 1. I did have the first bill in the hopper. Roger called me into his office and said, "You know, you have only been here 4 years. You are not No. 1 yet. You will have to try harder." [Laughter.] I ended up with senate file 2. Senate file 1 was a noncontroversial bill. It was a tax bill or something. But that was the reason I ended up with senate file 2.

Many individuals, organizations, and groups had input into the legislation. The basic thrust of the legislation was to implement the MHB program. We did so with the following major provisions.

One, it insures a permanent board composed of the representatives of the eight counties to administer the river. Mr. Robbins will probably have some input into some of the things that we agree are beneficial.

Two, we adopted the MHB plan for the shorelines. That was in a piece of the legislation.

Three, it provided for a mechanism for board review and certain zoning decisions to insure consistent application of the MHB plan in all counties. In other words, if you are going to have a plan composed of eight counties, you have got to have some review authority, because if one county did something that didn't agree with the whole concept of the plan, then another county did the same thing. Pretty soon you didn't have a plan. So the county boards got together. The legislature adopted the provision that any zoning variance would have to be approved by the members of the eight counties, the members of the board. That was to insure continuity and, I think, to insure the success of the plan. Without it, I don't think we would have had anything.

Four, it mandated the continuance of an advisory committee to insure public input in the decisionmaking process to which I agreed. Without all the work they put into it, I don't think we would have gotten nearly as far as we did. A lot of innovative ideas came up through members of these advisory committees that nobody would have thought of.

Five, it required county board ratification of the legislation and the MHB plan in order to continue participation.

As I said earlier, some legislators thought, when I introduced this bill, it was just another northern sham and the counties wouldn't or couldn't do the job. As the bill moved through the legislative process, the counties proved they were serious and the legislature responded. The bill received the support of the National Association of Counties, the AFL-CIO, and I don't know how many other groups. I don't know of any other legislation that had more support statewide or from so many citizens and environmental organizations.

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[1] See p. 139.

The legislative action tells the story. The bill was passed unanimously in the senate and there was less than a handful of votes against it in the house. Usually you have 15 votes against you just when you send out for sandwiches. So the point is we thought we did a beautiful job. I expected one vote against it and we never even had one vote. It was supported, by the way, by both U.S. Senators, Senator Durenberger and Senator Boschwitz; and seven out of the eight U.S. Congressmen, one exception. He didn't come out against it, but he didn't come out for it either. It was very bipartisan.

Since the MHB responded to the concerns of a broad range of interests in its plan, and because the board recognized that the Mississippi was important not only to the people of the area but to the State and the Nation as well, we sought and received a matching State grant to help finance the board's administration. That has already been alluded to earlier today.

Over the long term, I know what I intend to work for, and with the support of my senate and house colleagues, we will get a permanent State matching fund for MHB. That's our job down there. It is important that we do this.

Felix stated earlier that it is not only a State but a national interest. I don't think if we do our job in the legislature that we will have any problem receiving a matching fund, and receiving a matching grant simply because of the national, State, and local importance of the river, because it will cost a thousand times more to clean it up. I am optimistic that we will have something for you in the next legislative session.

Finally, Mr. Chairman, let me say this program is no fluke. It's no flash in the pan. It's not one of these quick-fix schemes. It's the result of a lot of hard work by a great many people, particularly by the county commissioners. I know people have said—and I appreciate their remarks—I started this type of thing because I had some hard experiences up in Voyageurs National Park.

From the very onset—the No. 1 thing I'm going to say here today—we realized we went into it to protect the river. I'm certain we went into it because there were threats by the Federal Government, and there were threats on the State government if we didn't go into it. But we did it, and we did it with the idea of protecting the river. That's No. 1.

I've been contacted by legislators from several other States—I don't know, I think it's 13—who want to develop a similar alternative based on the MHB concept—I should also say 100 miles of the Minnesota River. A bill was passed this session that takes our bill in total; I even think to the commas. I know of no changes. It does the same thing for 100 miles of the Minnesota River. Am I correct?

Mr. ROBBINS. Correct.

Mr. LESSARD. It's exactly the same bill. So we have already seen positive results within the borders of the Minnesota.

I believe the time is right—in fact, I think it's long overdue—for Congress to give serious consideration to alternatives, like the Mississippi Headwaters Board and its plan, as they come up with new Federal initiatives. I believe with the encouragement of the Federal Government, sound resource management alternatives can be developed which will not only work, but will be far less costly.

In closing, there is one message I would like you, Senator Durenberger, to take back to Washington—and the members of the panel who do go back to Washington. This single segment of river would have been the largest single segment entered in the System since its inception. Four hundred miles would be the largest single segment entered at one time in total. A lot of people didn't realize it was of significance.

The fact that everybody knows the Mississippi—everybody from the East, West, North, and South—I think, is probably one of the reasons it generated so much publicity and interest outside the borders of the State of Minnesota. It shows that eight counties, working together as one, can manage a unique natural resource. It shows, if given the opportunity, local units of government will and can act responsibly. We can do it faster, better, and cheaper. I hope the message you take back to Washington is "We want to protect our natural resource, and we will if you give us the chance."

Thank you.

Senator DURENBERGER. Thank you, Bob.

Ford?

Mr. ROBBINS. Senator Durenberger, members of the panel, honored guests, ladies and gentlemen. It is indeed a pleasure for me to appear before you today to address the question of how State and national citizen concerns are met through a local program.

The program we have been discussing is the Mississippi Headwaters program. However, I would like to speak to this issue in a broader context using the Mississippi program as a point of reference. I do support the program. My support has been alluded to before. My references today will be to issues I see that still have to be resolved and where there can be some interplay between governmental units.

Because of the shortness of time, I don't think I need to introduce myself and my background in the environmental community to the Senator. I'll let that go to my written statement.

The question is asked whether State and national citizen concerns can be effectively met through a local program of natural resource management. In my opinion, the answer at this time is "Probably not." There are some unique and wonderful exceptions. One is the Headwaters Board. Another one is the Pine Barrens Development in west-central New Jersey. The other one is one that started down in our own metropolitan area, the Metropolitan River Corridor effort. I will discuss these in a minute.

To achieve such a utopia of bringing together these diverse citizen interests, it seems to me, would require all of the following: A common concern or group of concerns, an agreed-upon vehicle to allow expression of those concerns, and an agreed-upon method of acting on those concerns. It seems to me it is paramount that there be a common concern, a group of concerns, if State or national citizen interests are to be effectively met. In other words, all must agree that there is a need for the program.

With reference to the northern Mississippi, it was clear from the outset that this valued river resource should be protected and managed. Congress recognized this fact in 1967 when it passed the National Wild and Scenic Rivers Act, and again in 1975 when it specifically named this stretch of the Mississippi as a study river. We in Minnesota recognized the fact with the adoption of our own Wild and Scenic Rivers Act. The local citizens in this area have been saying the same thing for many, many years. The political fight, if you will, over the protection of the northern Mississippi has, with very few exceptions, never been a fight over the issue of whether to protect the resource, only on the question of how to do it. It is the commonality of concerns that permitted the accomplishments seen in the Headwaters Board approach.

There are those who say the MHB concept can be transported to other areas and applied to the resolution of other natural resource management issues. I do not believe this can easily be done. What makes this plan unique, so far, is the fact there was this common concern, both nationally, on the State level and locally. The debate centered on the "how" and not the "whether."

It must also be kept in mind that the MHB was initially composed for the publicly stated purpose of avoiding first Federal and then State intervention in the management of the resource. It was only after this outside pressure was imposed that the local citizens began to take the matter seriously and to expand the context to recognize concerns beyond their own immediate community. Frankly speaking, it has been my experience in resource management issues that without such pressure, there really would not have been an MHB plan as we know it today. To transport the plan to other contexts will require similar political setting.

Once you have this expression of common concern, however, you need a vehicle to allow the expression of that concern. In Minnesota, we seem to love public hearings. It was the failure of the U.S. Department of the Interior in the early 1970's, during its first study of this resource, to allow full public participation in developing its study. That, in effect, opted the Federal Government out of a role in the management of the resource. The MHB learned well and provided ample opportunities for citizens to express their concerns.

If national and State citizen concerns are going to be met, it seems to me that the MHB approach must be seriously considered. That approach was to provide not only a series of public informational meetings or gatherings to discuss the proposal of public input, but also to have a set of formal hearings connected with the adoption of the plan. This is what the MHB did, and it's the kind of thing that was proposed and enacted in the Pine Barrens legislation. It also is in the metropolitan study proposal. Through this vehicle, public expression of opinions can be brought together and brought into the plan and properly recognized.

Finally, I believe it is necessary to have an agreed-upon method of acting on the concerns expressed at public hearings. In natural resource management it seems there are two primary concerns: The protection of the resource, or the utilization of the resource. Frequently, as we all know, these concerns clash, sometimes rather violently.

Management techniques are many and varied. The protection they frequently include are land-use controls and land acquisition policies. For utilization, they include recreation controls and depletion controls. Some methods are handled better by local governments, others by the State or Federal government. The best management, in my opinion, comes when there is a combination of all three levels of government working in a coordinated framework.

Again I make reference to the example of the Pine Barrens area in west-central New Jersey. In essence, this was a common agreement to institute a resource protection program in a cooperative effort and a joint study by representatives of all levels of government and concerned citizens. This resulted in legislation at the Federal level that helped that board carry out its management plan.

To summarize, my concerns at the present time with the Headwaters Board is that the plan, as effective as it is, will run afoul of potential State or Federal activities. There is no jurisdiction under its charter, if you will, its State legislation. There is no Federal legislation which will enable it to stop, if it wanted to do so, such things as the Corps of Engineers from coming in and reworking all the dams, or other similar kinds of problems. That's one of the things I think is going to have to be addressed in the future.

The other thing I think that will have to be addressed in the future—with the makeup of the board representing jurisdictions of eight counties at this point—there is no membership on the board itself of a broader jurisdictional interest. I think you will find, in the long run, there will be less and less funding capabilities for that, and less and less public input. As a result, there will be less and less citizen participation.

Thank you.

Senator DURENBERGER. Joe?

Mr. ALEXANDER. Mr. Chairman, I'll be as brief as I can. My name is Joseph Alexander, commissioner of the Minnesota Department of Natural Resources.

On June 20, 1974, a representative for the Minnesota Department of Natural Resources, in a statement made before the U.S. Senate Committee on Interior and Insular Affairs, testified to the great scenic, historical, and recreational values of the Mississippi River. He also stated, however, that these values could easily be lost and, if development trends continued, the natural character of the river would be severely altered.

Today, 8 years later, a plan is in place that goes a long way in providing the needed resource protection or management. The State of Minnesota, the Headwaters Board, the eight counties and people across the State are all dedicated to acheiving the best protection and management of the Mississippi River.

Past State actions have included the establishment of numerous facilities and the implementation of programs that have provided recreational opportunities for the public and the means to manage development along the river.

These programs and facilities include the following—and some, incidentally, go back a long way: The establishment of State parks, including Itasca, Lake Bemidji, Schoolcraft, Crow Wing, and Charles A. Lindberg; the establishment of State forests including the Mississippi Headwaters Forest, Bowstring, Hill River, Savanna, Crow Wing; the 1963 designation of the Mississippi as Canoe and Boating Route with the establishment of numerous accesses and campsites; the implementation of the Shoreline Management Act of 1969 that established zoning standards for the river and headwater lakes; the Floodplain Management Act of 1970 that protects floodplains and prevents development that would be damaged by floods; and the 1976 designation of the Mississippi River, from St. Cloud to Anoka, as Minnesota's second "Wild and Scenic River."

In 1981, in testimony before the Minnesota Senate Committee on Agriculture and Natural Resources, I strongly supported the legislation creating the Mississippi Headwaters Board. I believe such local resource protection plans are the best and quickest way to protect resources such as the Mississippi River. I also stated, however, if the counties' efforts were to fail, I would take all necessary action to insure that strong coordinated protection was provided.

The Minnesota Department of Natural Resources has welcomed the opportunity to be an active participant in the management plan for the Upper Mississippi. The DNR was represented on the technical committee that helped draft the plan, and now administers the Legislative Commission on Minnesota Resources [LCMR] to the board. In addition, the Minnesota Department of Natural Resources signed a cooperative agreement with the board that establishes and defines our close working relationship.

The MHB plan is not the only local government action designed to protect river resources. A similar program, which Senator Lessard described, has been initiated by six counties on the Minnesota River. This year the legislature passed legislation to establish a board known as Project Riverbend.

In a larger sense, however, I believe this local effort to protect the Mississippi River should be a signal to the Federal Government that State and local units of government can and will protect the national interests through responsible natural resource management. The Federal Government should reserve its powers, programs, and authorities for use in those areas where these needs are not being met.

That's my statement, Mr. Chairman.

Senator DURENBERGER. Thank you.

Bob?

Mr. HANSEN. Thank you, Senator. My name is Robert E. Hansen. I'm executive director of the Legislative Commission on Minnesota Resources. I'm sorry Senator Moe has left. The senator is a very outstanding member of our commission.

I wish to thank you for your invitation to testify before the subcommittee.

Let me first explain the nature and the mission of the Legislative Commission on Minnesota Resources, referred to as LCMR. The LCMR was created in 1963 in order to "provide the legislature with the background necessary to evaluate programs proposed to preserve, develop, and maintain the natural resources of this State." The membership consists of seven senators appointed by the committee on committees, and seven representatives appointed by the speaker of the house. All members serve until their successors are appointed. Vacancies which may occur do not affect the authority of the commission. The members elect their officers, currently rotating the chair between the senate and the house every 2 years. The LCMR employs a full time professional and support staff. Commission administration is subject to the coordination of the Legislative Coordinating Commission, known as the LCC, as are all legislative commissions.

Eleven percent of the cigarette tax is set aside, by law, for the natural resources and natural resources acceleration accounts. The LCMR makes recommendations to the legislature each odd year for appropriations which should be made from the accounts. During the biennium, LCMR provides very close monitoring and review of the programs supported by those appropriations. The commission reviews those programs to prepare recommendations on further policy considerations revealed in the program operations. The LCMR also makes inquiries into natural resource program areas which bear potential for future State involvement, and occasionally initiates actions and/or program funding in order to fully explore the potentials for State involvement.

The LCMR develops its recommendations after an extensive review of current problems and prospects in all natural resource fields. This review is conducted during each even numbered year, in preparation for determination of which issue areas require initial or accelerated funding. The LCMR requests both written and oral advice from a wide variety of interested and knowledgeable persons and professionals. After examination and discussion of the issues, the members request more concrete suggested solutions to the problems described in selected issue areas. Eventually, the members decide to recommend both the appropriation amounts and the program details for those selected solutions. These recommendations go to the Senate Finance and House Appropriations Committee for their consideration and inclusion with the State Department's appropriation bill. The LCMR recommendations become law when enacted in that bill.

Since its inception in 1963, the LCMR has funneled millions of dollars into innovative State natural resource programs. The commission has also optimized the use of Federal money where available. One example is the LCMR requirement that certain State appropriations be spent on activities specifically eligible for land and water conservation [LWCF] Federal reimbursement. Minnesota has consistently spent more per year in LWCF eligible activities than was ever needed to use the Federal apportionment. I think those points illustrate the interest in and concern for natural resource management on the part of the LCMR and the entire State legislature.

In 1973, the legislature adopted the Wild, Scenic and Recreational Rivers Act [WSR]. The LCMR has recommended appropriations in every biennium since, to implement the purposes of the act. In the early years, several rivers were studied, classified and declared to be either wild, scenic, or recreational, including possible combinations of the designations. Management plans for the most obvious and outstanding rivers were established first.

Once the most obvious rivers were planned, attention shifted to the remaining rivers. Consensus broke down as to the most appropriate designation and also as to the most appropriate level of government to be charged with the administration and protection of the remaining candidate rivers. To my knowledge, there has been no dispute as to the need for some level of special protection for rivers. Citizens and local governments have instead disagreed with State, as opposed to local designation, land use control, protection and recreation measures.

The LCMR maintained all along the principal objective was protection, not jurisdiction. The commission charged the Department of Natural Resources to intensify the resource analysis activities for candidate rivers, and to explore the suitability of other protective measures short of WSR designation, which is the ultimate in the protection hierarchy. In recent years, some local units of government have voluntarily banded together to demonstrate their resolve to protect their common river resource. The legislature recognized the genuine nature of the local concerns and passed legislation which enabled certain local units to protect river sections within the bounds of local authority and autonomy. The LCMR provided money for the Upper Mississippi Headwaters Board to complete their plan and to implement necessary measures.[1] The protective measures seem to be adequate. Local concern and autonomy are also preserved. As an experiment, the front-end financial needs were shared 50-50 with the joint local jurisdiction.

The ongoing administration of the protective measures will, of course, be a local responsibility in keeping with the stated desires of local citizens to manage their own affairs. Unless evidence to the contrary should surface, it appears that the State attained the protection of a valuable resource in partnership with the local governments involved.

I would also like to inform you of another locally initiated effort which had been alluded to previously. This one is on the Minnesota River in the southern part of the State. A section of the Minnesota River was under review for possible WSR planning and designation. Once the extent of local resolve was recognized, the legislature also passed legislation which enabled that group, called the Project Riverbend Board, to plan and implement protective measures. From all appearances, that process is working reasonably well and should serve as the second example of the model initiated on the Mississippi.

I thank you for the opportunity you gave me today. I will do my best to respond to any questions.

Senator DURENBERGER. Thank you very much.

I want to share with you a couple things I was looking at here while listening to your testimony, and having been around State government when the LCMR was getting off the ground. I smiled at Joe Alexander when you said the LCMR charged the DNR to do certain things; because as a result, one of the reasons the legislature created this commission was because they really thought the State ought to be taking a broader view of natural resources—how best to utilize them and so forth. I was also reading here and I knew that—well, present company excepted—there were those who have used State designated facilities as—oh, how can you charitably say this? I guess there was one point in time where we had little State parks in practically every legislative district. I'm sure that goes way back someplace.

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[1] See p. 141.

I was reading here in the Washington Post of 1980, it says:

> When the largest parks bill in the Nation's history worked its way past the Senate in the closing days of the 95th Congress * * * some members even wondered out loud if parks were replacing water projects as the favorite items for politicians to take home.[1]

Then there is another article here of one of Jim Oberstar's "beloved friends," Phil Burton.[2] That should be in quotes because we know how Jim has to fight with Phil Burton, the Congressman from California. Here Burton says of the "failure of the Interior Department to recommend Sweeney Ridge"—this is in California, right?—"for inclusion in the national park system, 'won't have any impact at all on my committee and I don't think on the House.'" That's what Burton said.

Burton goes on to say, "I don't take these recommendations,"—in this case from Cecil Andrus, who is perceived to be the antithesis of Jim Watt—"the fact Andrus and the Interior did not include certain of these parks in the national system," Burton says, "I don't take any of that seriously. Three-fourths of the parks bill which passed recently didn't have the recommendation of the Park Service and the Interior Department."

I say that only because sometimes we dump on the Jim Dunnings or the Park Service as though they are always the bad guys. There are always enough folks in the Congress who look at some of this sort of stuff as pork barrel, or something like that, to give the whole Federal process not the best of names. In the process of doing that, you know, it makes it much more difficult for people at the Federal level to look carefully and appropriately at what is our national responsibility for some of these facilities, and how we can best carry out that responsibility, which is really the essence of this hearing.

Ray, do you have a question or two you would like to ask?

Mr. BLACK. Thank you, Senator. It seems to me we have had a very interesting afternoon. However, nobody has mentioned any dollar figures. That always leaves me a little uncomfortable.

How much money was raised privately to get this project launched? How much, in the way of matching funds, has the LCMR provided? What does it look like, as far as the budget for the future is concerned? Would one of these men be able to respond to those questions?

Mr. HANSEN. From the LCMR's standpoint, Mr. Black, we awarded $160,000 or $80,000 each year of the biennium. That was on a 50-percent match with local shares. So your total package is $320,000 on a biennium.

Mr. BLACK. Thank you. Do you know what was raised privately or is it——

Mr. HANSEN. No, I don't.

VOICE FROM THE AUDIENCE. I could answer that. Approximately $45,000 was raised from the local industry.

Mr. BLACK. I see. Thank you.

Senator DURENBERGER. What about Lawcon on that same subject? Maybe we didn't talk about money earlier because somebody said we are not going to talk about money. That does get to the heart of the problem which I heard a little bit about in Ford's testimony. At some point you have to have the financial resources to go with the commitment and consensus. Where is the Federal Government's role in there? Where does Lawcon seem to be heading, or where should it be heading in this process? Bob, do you know the answer?

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[1] See p. 45.

[2] See p. 138.

Mr. HANSEN. Senator, I think it has been a disaster that the Federal Congress has supported the majority of the State congresses in the pulling back of Lawcon funds. What I alluded to in my testimony was the matching moneys LCMR has provided. The State of Minnesota, since the inception of Lawcon, has received $50 million. Every one of those dollars has been matched by local and State moneys. You are talking about $150 million total which has gone into the recreational programs of this State. Those funds go to large State park acquisitions or developments and to the small type recreational areas that local communities throughout our State cannot support themselves.

Minnesota, I think, was unique in how it handled the Lawcon funds. It immediately passed a law which provided that 50 percent of the Federal Government allocation would go back to the local or regional level for use. The other 50 percent would be maintained for State recreational use. The Legislative Commission on Minnesota Resources has provided $4 million of match per year for the local people in regional and local use. They can implement those moneys into programs on that level. We have also provided the upfront money for the State to develop its resource use.

For some reason, it is now felt that those moneys aren't being used. I submit to you that it's in the State not being willing to put up the up-front bucks themselves. Or, it could be others who are unwilling to see those, who have matched it, go on and improve their recreation areas. Those very same States come into Minnesota and use our recreational facilities because there has been such a good job done with the money.

I would urge you, if possible—and I know your own personal interest depends a lot on it—to do everything you can to institute Lawcon so that it comes back to the States in an allocation form and can be used for the preservation of our resources.

Mr. ROBBINS. Senator, I couldn't agree more. It's been a total disaster—the present Secretary of the Interior and the Congress support of that, as far as Lawcon goes. It's a very pennywise and pound-foolish approach. The biggest concern I'm voicing today about the Headwaters Board approach is long range—20 or 25 years out. However, the Headwaters Board approach, as good as it is, can't get anywhere without some form of more substantial financial backing. As I said, it's very pennywise and pound foolish to cut out Lawcon.

Senator DURENBERGER. One of my fears here—and I've been trying to articulate this in these general questions—is maybe we have come up with a local government solution that will tend to have the National Government ignore the value of what local people are doing for the Nation. I think when Felix testified he said something to the effect, "We here locally are using our own dollars to preserve resources to be used by people who don't live here; we have never met them before, but they will come up here and use them."

One of the problems we have to keep searching for here is "How we keep a national concern, national interest, and national financial commitment to this process?" I saw Gordy Newstrom out here earlier. He knows there are hundreds of millions of dollars going into airport trust funds which are not being spent on airports. Everybody who knows anything about highways knows there are billions of dollars in highway trust funds that aren't being spent on highways. All you people know there are tens of millions of dollars coming into the Federal Treasury from the sale or lease of natural resources in this country—on the continent and offshore—that are not going back into natural resource preservation. The Lawcon spending has gone down to zero, but the money is still coming in all the time and going someplace into general revenue.

Mr. **Hansen**. Senator, I can further comment. It's my understanding that the institution of the land and water conservation fund was a process by which the National Park Service and the U.S. Department of the Interior could handle their programs for 50 percent of those moneys. The allocations would go back to the States for their use. However, they found that they could not do their job in the Federal system so they kept nibbling away and taking all the receipts away that the States were getting—where the job was being done. If you analyze back in the shift as it came about, the States that have many national parks—California, for example, uses the national park system for its local use; where we, here in Minnesota, use our State park system and we pay for it—now get the Lawcon moneys to continue the use of those national parks. We are out of the picture.

Senator **Durenberger**. Last year we hung onto as much of the Lawcon money on the Senate side as we possibly could, and lost it over in the House for some reason. That's why I mentioned Burton and the other people before. I think that's an area we really have to take something out of somebody's saddle one of these days.

Mr. **Black**. Senator, it seems we should talk about the Great River Road funds since that bears very directly on these 400 miles of river. What's the status of that?

Mr. **Alexander**. I don't know.

We just completed some work with the Department of Transportation at Itasca, and that stretch there. As far as the entire funding of that road, I can't give you an answer.

Mr. **Lessard**. When this was going on, we separated the Great River Road from the Headwaters Board as much as possible. There was a lot of confusion between the two, so we wanted to do one thing at a time. I never got into that.

Mr. **Hansen**. I might comment on that, Mr. Black. LCMR has been involved with the Great River Road fund. The latest report, sent to LCMR by the commissioner of transportation as far as 3 weeks ago, was that possibly this State is going to lose $2 million of that money. They are not able to allow moneys to be spent over the ceiling that's provided by the Department of Transportation. For the first time, they have put the Great River Road fund under the ceiling. I don't know what that amount is, but there is a ceiling of total dollars that can be spent in the State by the Department of Transportation.

So, they put the Great River Road fund in the competitive position of dealing with the local jurisdiction county road programs. Those moneys, then, would be in jeopardy. However, the commissioner stated there is probably close to $2 million they won't be able to match. Unfortunately, that money goes back and is split among the remaining States. I'm sure Senator Long in Louisiana, where every one of his roads qualifies for the Great River Road money, is sitting there waiting for it to come.

Senator DURENBERGER. Are you the Great River Road expert? Do you want to come up and identify yourself for the record? We are getting close to the end of the hearing. But since Ray asked a good question, maybe you can identify yourself and explain what's going on.

Mr. GOLFIS. Let me save the best for last as far as funding goes. My name is Andy Golfis. I'm the coordinator for the Great River Road program in the State of Minnesota.

Our outlook on funding is rather good in terms of dollars available, in light of the Lawcon problems and other things that we have faced. We do have a problem, as Bob Hansen has indicated, in that, last year, we had the insight of the House to try to save us from the fate of Lawcon messing up our program. They took us out of the general trust fund dollars and put us into a safer position of being included in the ceiling of overall spending by the Department. That has limited us, yet, at the same time has saved us, for we can use the Great River Road dollars through fiscal year 1985.

What Bob was referring to is that, each year we are responsible for a certain amount of funds which was made available to the State 3 years prior. This year we have a responsibility of using up $7.9 million of the available $19 million with which the State has to work. Because we are in competition with interstate projects—very high priority road projects—the Great River Road is having a difficult time squeezing its projects out from underneath the Federal ceiling.

Without getting too involved with the Federal ceiling, in essence, what Congress has done is given us *x* number of dollars to work with that are available; but it has imposed a lesser amount that we can spend, which is in the neighborhood of 80 percent of that. So, that puts a responsibility on the State to prioritize what projects it wants to build. Right now, anyone administering a program, let alone a department, is having a very difficult time to not let Federal funds lapse, because they are so scarce. Every attempt is being made to develop projects with the available Great River Road funds.

An example of that, for those who took the bus down today or rode by canoe, you traveled on a couple segments of the Great River Road, County Road 3, which is presently using Great River Road funds for necessary road improvements. If you rode in the bus, I am sure you were aware of the fact you were on a road that needed improvements. Jacobson Park, where we had the fish fry, is presently using Federal funds out of the Great River Road program for improvements.

Today, roughly $25 million has been obligated to the State. We will get as much as we can. We will try—and I think with quite a bit of success, as our track record has proven—to save those dollars available for the State of Minnesota, and not let them go down to the Southern States, believe me.

Is there any questions I can answer?

Senator DURENBERGER. Are there any more comments anybody wants to make?

Mr. LESSARD. Why can't we have an innovative program? We are penalized because of State-owned land. I think we are the third largest landowners in the United States: The Federal Government, the State of Alaska, and then, the State of Minnesota. Go to Texas or a lot of other States. Texas is privately owned, as are some of the Western States.

We hate the word "dedicated" in our legislature, too. However, what we are using sounds kind of good, but it's the same thing—"It shall be the policy of the legislature."

We are taking the funds. The $2 for game habitat were put in there; that's where it's going. We are doing the same thing with the fishing licenses. That's the only thing we can do. For a State with a lot of land, we are going down the line.

By the way, didn't Burton retire? John is, I think.

Senator DURENBERGER. Has anybody checked? He was still running.

Ray, do you have anything else?

Mr. BLACK. No. Thank you.

Senator DURENBERGER. Ray, thank you very much for being a Senator today, and thank Roger who had to get back to Ada.

Mr. HANSEN. Senator?

Senator DURENBERGER. Yes, Bob.

Mr. HANSEN. One thing in conclusion. I think one of the things that could help in the Great River Road is if the funds themselves could be taken out from that ceiling which the State has, and we could be allowed to use the moneys without jeopardizing other State programs.

Mr. ALEXANDER. Senator, this great amount of money which Bob Hansen is mentioning could be enhanced a little bit if we put a tax on pipe tobacco. I thought we might get at that. For those out there who are a little worried, we might even get Copenhagen.

Senator DURENBERGER. Don't tax Snoose.

Also, I want to thank Virgil Foster, the chairman of the Headwaters Board, who helped us organize a host of activities today; and Gus Schroeder, from Aitkin County, who had the nerve to take me in his canoe; and Erv Ellis who had a special role to play in this most helpful hearing, which I think you will all hear more about from a national level as part of your contribution to changing Federal policy.

[Mr. Lessard's and Mr. Robbins' prepared statements and responses of Mr. Hansen to written questions submitted by Senator Durenberger follow:]

PREPARED STATEMENT OF STATE SENATOR BOB LESSARD

Mr. Chairman, I want to thank you for the opportunity to testify before the Intergovernmental Relations Subcommittee.

I will focus my remarks on the State legislative process as it affected the Headwaters Board program.

First, let me say that many individuals, including legislators, were skeptical about the project. It was initially described by some as a sham. Well, as many of us said from the beginning we had to have a geniune effort to protect the River by the local governments, and this is precisely what was developed.

Regarding the legislative process, the need for State legislation arose as a result of the negotiated settlement between the Mississippi Headwaters Board and the National Park Service. Many of the concepts suggested by the Park Service were among those discussed by the Board and its advisory committees as being necessary to insure the long-term success of the MHB plan objectives.

I introduced senate file 2 and Representative Don Samuelson of Brainerd introduced the companion bill in the house, house file 510.

Many individuals, organizations and groups had input into this legislation. The basic thrust of the bill was to implement the MHB program. It did so through the following major provisions:

(1) Insured a permanent board composed of representatives of the eight counties to administer the River;

(2) Adopted the MHB plan and its standards for use of the River and its shoreline;

(3) Provided a mechanism for Board review and certification of certain zoning decisions to insure consistent application of the MHB plan in all counties;

(4) Mandated the continuance of an advisory committee to insure public input in the decisionmaking; and

(5) Required county board ratification of the legislation and the MHB plan in order to continue participation.

As I alluded to earlier, some legislators said when I introduced this bill that this effort was just another northern Minnesota sham; and that the counties either couldn't, or wouldn't, do the job. Well, as the bill moved through the legislative process, the counties proved they were serious and the legislature responded.

The bill received the support of the National Association of Counties, the AFL-CIO, and many citizen and environmental organizations. The legislative action on the bill tells the story. The bill was passed unanimously in the senate and there was less than a handful of votes against it in the house.

Since the MHB has recognized and responded to the concerns of a broad range of interests in its plan and because the Board recognized that the Mississippi was important not only to the people of the area but to the State and Nation as well; we sought and received a matching State grant to help finance Board administration.

Over the long-term I intend to work for, and with the support of my colleagues in the legislature, hopefully get a permanent State matching grant program for the MHB.

Finally, Mr. Chairman, let me say that this program is no fluke, no flash in the pan, no quick fix scheme. It's the result of hard work by a great many people—most particularly the county commissioners themselves. I've been contacted by legislators in several other States who want to develop similar alternatives based on the MHB concept. I believe the time is right, in fact, long overdue, for Congress to give at least as serious consideration to alternatives like the Mississippi Headwaters Board program as they do to new federal initiatives. I believe that with some encouragement from the Federal Government, sound resource management alternatives can be developed which will not only work, but also be far less costly.

Prepared Statement of Ford M. Robbins

Senator Durenberger, members of the Committee, honored guests, ladies and gentlemen, it is indeed a pleasure for me to appear before you today to address the question of how state and national citizen concerns are met through a local program. The program we have been discussing today is the Mississippi Headwaters Program. I would like to speak to the question in a broader context, using this program as a point of reference. However, perhaps it would be better for me to begin by putting myself into the context first.

I consider myself a native Minnesotan even though I was born in the Los Angeles area of California, moving here at the age of two. Since that time, I have been involved in one way or another in this State's natural resources, either through my parents or through school, friends, relatives and acquaintances. My appreciation of what our area has to offer led me some 15 years ago to become active in the protection of the environment, more particularly, river and water resources. During this time I have actively participated in legislative efforts to protect river resources within this state, many of the administrative processes brought under our Wild & Scenic Rivers Act, the protection of the St. Croix under the Federal Wild & Scenic Act, efforts regarding the Upper Mississippi from its source at Itasca to St. Louis, judicial proceedings regarding the constitutionality of our State Wild & Scenic Rivers Act, and membership on several citizen advisory committees whose purpose was to draft rules regarding the protection of water resources. At the present time it is my privilege to sit with the Citizens Advisory Committee of the Mississippi Headwaters Board. From these experiences, which have been quite enjoyable, I believe that I have learned a great deal regarding federal, state and local relations in natural resource protection; I feel honored to be asked to pass my views on to you.

The question is asked whether state and national citizen concerns can effectively be met through a local program of natural resource management. The answer, in my opinion, is probably not. There are exceptions, and I will discuss one in a moment, but to achieve such a utopia, it seems to me, would require all of the following: A common concern or group of concerns; an agreed-upon vehicle to allow expression of those concerns; and an agreed-upon method of acting on those concerns.

Behind all of this must be some form of desire or pressure to want to express those concerns publicly. Many things never reach the stage of public debate because the concern or concerns are not expressed. We all mumble under our breath or write fictitious letters to the editor, but unless we actually get up and say something, no one will ever know. When the concerns are expressed some action will usually be forthcoming, and it is in the formulation of that response that a commonality of interest must be found. Otherwise, all concerns will not be effectively met.

It seems to me that it is paramount that there be a common concern or group of concerns if state and national citizen concerns are to be effectively met through a local program of natural resource management. In other words, all must agree that there is a need for the program. With reference to the northern Mississippi, it was clear from the outset that this valued river resource should be protected and managed. Congress recognized this fact in 1967 when it passed the national Wild and Scenic Rivers Act and named the Upper Mississippi as a study river. We in Minnesota recognized this fact with the adoption of our Wild and Scenic Rivers Act, and the local citizens have been saying the same for years. The political fight, if you will, over the protection of the northern Mississippi has, with very few exceptions, never been a fight over the issue of whether to protect the resource, but only on the question of how to do it. It is this commonality of concern that permitted the accomplishment seen in the Mississippi Headwaters Plan.

There are those who say that the MHB concept can be transported to other areas and applied to the resolution of other natural resource management issues. I do not believe so. What makes the MHB Plan unique, so far, is the fact that there was this common concern, national, state and local, so that the debate centered on the "how", and not the "whether." It must also be kept in mind that the MHB was initially proposed for the publicly-stated purpose of avoiding first, federal, and then state intervention in the management of the resource. It was only after this outside pressure was imposed that the local citizens began to expand their context to recognize concerns beyond their immediate community. Frankly speaking, without such pressure there would have been no MHB Plan. To transport the Plan to other contexts will require a similar political setting.

Once you have the expression of a common concern, you need a vehicle to allow the expression of that concern. In Minnesota, it seems that we love public hearings. It was the failure of the Department of Interior in the early 1970's to allow public participation as it developed its study and plan for management of the northern Mississippi that opted the federal government out of a role in the management of the resource. The MHB learned well and provided ample opportunity for citizens to express their concerns. The only problem was, the MHB held its hearings in northern Minnesota with only one poorly-publized hearing in St. Paul. I mention this, not because I believe a poor program of natural resource management resulted, but only to point out that if national and state concerns are to be effectively met in such resource management, you must have a vehicle to allow them to be expressed. As it is, the only vehicle presently available for the expression of these concerns to the MHB is the Citizens Advisory Committee, which, as its name states, is only advisory. There is no direct role in the decision-making process of the MHB for representatives of state and national concerns, unfortunately. Unless this fact is eventually addressed and remedied, I believe that it will be difficult for the MHB to secure public financing of its operations beyond its 8-county jurisdiction for any great period of time, nor will it be possible to completely keep the federal and state governments out of any role in the management of this river resource.

Finally, I believe it necessary to have an agreed-upon method of acting on the concerns of state and national magnitude if they are to be effectively met by a local program. In natural resource management it seems that there are two primary concerns, protection of the resource and utilization of the resource. Frequently, as we all know, these concerns clash—sometimes violently. Management techniques are many and varied. For protection, they frequently include land use controls and land acquisition policies. For utilization, recreation controls and depletion controls. Some methods are better handled by local governments, other by state or federal governments. The best management, in my opinion, comes when there is a combination of all three levels of govenment working in a coordinated framework. An example of this would be the Pine Barrens area of New Jersey. In essence, there was common agreement to institute a resource protection program for the Pine Barrens. A cooperative effort on the part of federal, state and local governments and concerned citizens resulted in legislation at the federal level which created a planning board with representatives from all levels of government and a variety of citizen concerns. The management plan that resulted will be utilized and enforced through the cooperative efforts of the same governments involved in the planning process. A similar approach has been taken by you, Sen. Durenberger, in your metropolitan rivers corridor legislation recently passed by Congress. This approach, it seems to me, more effectively meets state and national citizen concerns in resource management.

Here, the MHB has tried to avoid state and national involvement, seeking state help and advise only when needed. As a result, state and national citizen concerns are not effectively met. The first clash may come when the U.S. Army Corps of Engineers seeks to rework its dams within the stretch of the river under the jurisdiction of the MHB. The MHB will be powerless to effectively express the concerns of all citizens, local, state or national. My point here is simply that, in its present form, the MHB does not and cannot effectively express or meet the concerns of state and national citizens with regard to the management of this natural resource. I am not saying, and do not mean to imply, that the present MHB Plan is not an effective means with which to manage the resource. My concern, really, is what happens fifteen or twenty years from now, when land use controls, without a firm plan of land acquisition, fail to provide adequate protection for the resource. In my opinion, these shortcomings in the MHB plan will have to be addressed in the future, if state and national concerns are to be effectively met.

There is currently much call for return of government to local control. While I agree with the principal and would encourage as much return to local government of state and federal programs as possible, we must recognize the fact that some programs simply cannot effectively meet mutual concerns if left totally to local government. I believe that natural resource management falls in this category. I also believe that natural resource management is not the exclusive province of any level of government, but rather, should be a shared responsibility of all levels of government, each sharing their respective expertise and experience. If this were the case, then I believe that state and national citizen concerns could be effectively met in a local program. In these tight budget times, this would also allow better use of limited financial resources. The result could be wise stewardship of our very limited natural resources.

Thank you.

RESPONSES OF MR. HANSEN TO WRITTEN QUESTIONS SUBMITTED BY SENATOR DURENBERGER

Question 1. Mr. Hansen, what is the nature of the members of the LCMR? Are they chosen to serve at random, or what is the basis for appointment?

Answer. The membership usually includes the Finance and Appropriation Committees, the Natural Resource Committee, at the minimum. Frequently, the membership includes the Speaker of the House, majority and minority leaders of the House, majority leadership of the Senate.

There is always a bipartisan balance, usually in the same proportions as the Senate and House.

The big ingredient seems to be an interest in improvement of natural resource management.

Question 2. Mr. Hansen, how does the LCMR figure out which specific programs to recommend for funding?

Answer. The LCMR requests advice from the broadest possible array of people and organizations. We ask them to explain what they feel are the most critical natural resource problems and to recommend some possible solutions.

The LCMR then holds a working conference called an "Issues Seminar", where all 14 members discuss the problems and begin to arrive at a consensus on which are most pressing.

At regular LCMR hearings, the members hear about detailed proposals to solve problems. These are submitted through state agencies in the form of budget proposals for specific activities or programs.

Question 3. How much money is involved? Don't you run the risk of conflicting with or duplicating the regular budget process?

Answer. The LCMR recommends appropriations of the entire Natural Resource Account, which for the fiscal biennium FY82 and 83 totalled $28.1 million. The Account consists primarily of a portion of the cigarette tax and may be asked only for programs of natural resource preservation and development.

The full legislature decides whether to adopt or change the recommendations before they become law, because the recommendations are included as a detailed section of the State Departments Appropriation Act—the main budget bill.

There is no conflict with nor duplication of the regular budget process. This is partly due to the duties of the members, who also sit on the money committees and the natural resource committees in both Houses.

Except for in the rarest cases, no program or project is presented for funding to both the regular budget and LCMR. The staff of LCMR works closely with the money committee staff. The LCMR may recommend that a program become part of the regular budget, but in that case, the program would be under consideration in one floor—the regular budget.

There is frequently significant discussion on the floor of the House or Senate relating to the LCMR recommended appropriations. There is no question that the full legislature is involved in deciding the appropriations.

Question 4. How does the LCMR, as a part of the State legislature, interact with local government?

Answer. Several ways. First, the legislature represents local citizens and thus represents local government. It is no secret that county boards, city councils, regional commissions, et cetera, make their views known to their legislators. Secondly, the LCMR requests the advice of organizations which represent local units, for example, the Association of Counties, and the Minnesota Association of Regional Development Commissions. Third, on many occasions the staff or the members discuss topics with locally elected or appointed officials. I should emphasize, however, that the Commission works through state agencies, by recommending appropriations for agencies and by monitoring state agency program operation.

Question 5. The Mississippi River is, of course, one of the major rivers in the Nation. Does the LCMR feel that such a major natural resource can be adequately protected through local units of government?

Answer. As I stated in my comments, the overriding concern is for the appropriate protection of the river and its related resources. Mr. Chairman, the state law which enables local unit control specifies that by state law that the comprehensive plan adopted by the Board is in fact the plan to be implemented. It is binding upon the Counties.

I suggest to you, Mr. Chairman, that if the local jurisdiction does not adequately protect the River and its related resource, that there are plenty of people concerned who will raise this issue again.

Senator DURENBERGER. Thank you very much. The hearing is adjourned.

[The hearing adjourned at approximately 5 p.m.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

[From the Congressional Record, Dec. 11, 1980]

THE MISSISSIPPI HEADWATERS BOARD MANAGEMENT PLAN FOR THE UPPER MISSISSIPPI RIVER

(By Senator Dave Durenberger)

Mr. President, the Mississippi River is one of our country's greatest natural resources. Throughout the history of our Nation this river has been a vital link for commerce and transportation, a unique recreational asset, and a source of unending natural beauty.

Today, we are opening a new era for the upper Mississippi River. The dedicated planning efforts of local citizens along the upper 400 miles of the river and the cooperation of local, State, and Federal units of government augur a bright future for this stretch of the "Father of Water" which includes the headwaters.

I particularly want to congratulate the work of the members of the Mississippi Headwaters Board for their tireless efforts, their commitment to local involvement, and their persistence which will be rewarded in a new stewardship of a unique resource. They took on a difficult and thankless task and have performed their duty with skill, sensitivity, and an understanding of the need to protect this resource for future generations.

National interest in the river was reflected in congressional action in 1975 when the upper Mississippi was designated a "study river" for inclusion in the National Wild and Scenic River System. A Bureau of Outdoor Recreation study recommended in 1977 that the river be designated a component of the National Wild and Scenic River System.

In early 1978 Congress amended the bill which would have designated the portion recommended in the BOR study for inclusion in the Wild and Scenic River System to provide for further study and additional opportunities for public involvement.

Although the bill did not pass, the Department of the Interior Park Service under Executive order and the Mississippi Headwaters Board worked concurrently on separate studies of the river. The Mississippi Headwaters Board was formed under a State joint powers law.

The members are chosen from the local county boards of the eight counties adjacent to the river in this area. The board, through its consultants, Goff, Priesnitz & Associates, worked diligently to provide an opportunity for representation by a wide variety of public and private interests.

Negotiations between the Park Service and the headwaters board resulted in agreement on a management plan for the upper Mississippi River which uses county zoning; cooperative agreements with State and Federal agencies; recreational development and management; and donation or purchase of critical lands in the public interest to safeguard the river.

Because of the past and present stewardship of the citizens of the headwaters area, the Mississippi River is still the magnificent natural resource it is today.

Strong, effective local leadership should keep it that way through the implementation of a carefully thought-through plan.

Reflecting the best in Federal, State, local partnership, I am pleased to bring to your attention this unique and effective response to involving affected landowners, communities, Federal and State interests, and economic and environmental concerns.

I am confident with this partnership in place, the plan will evolve and move forward to set a standard for natural resource management planning that may prove to be a benchmark for responsible local action to safeguard a national resource.

I stand ready to introduce needed Federal legislation which may be proposed to encourage and implement the results from this kind of cooperative planning.

For the purposes of providing further details on the development of the process and the community reaction to the results and achievements of the Mississippi Headwaters Board, I ask that the following materials be printed in the Record.

The material follows:

MISSISSIPPI HEADWATERS BOARD POSITION PAPER

INTRODUCTION

This position paper was developed by the Mississippi Headwaters Board [MHB] in order to provide basic information to those concerned with the Upper Mississippi Wild and Scenic River alternative plan being developed under the Board's direction.

This paper explains the philosophy of our board in developing an alternative plan and includes a comparative description of the alternative plans being developed by the MHB and the National Park Service.

BACKGROUND

On January 3, 1975 the President signed P.L. 93-621 which authorized a study of the upper 466 miles of the Mississippi River from Lake Itasca to Anoka for possible designation as a National Wild and Scenic River.

In October, 1975 the preliminary draft plan prepared by the U.S. Bureau of Outdoor Recreation (BOR) was completed, and in May, 1977 Assistant Secretary of Interior Robert Herbst submitted the study and Environmental Impact Statement (EIS) to Congress and President Carter.

On June 15, 1977 S. 1697, a bill which would designate the ten segments recommended in the BOR study, was introduced in the Senate. On October 31, 1977 H.R. 9855, which would amend the National Wild and Scenic Rivers Act to designate the Upper Mississippi, was introduced.

In January, 1978 Congressman Oberstar amended the bill to require a more complete, specific study. The Mississippi designation provision was subsequently deleted from the Omnibus Parks and Recreation bill passed by Congress.

In August, 1979 President Carter included the Upper Mississippi in his Environmental Message and called for a study "to determine the specific requirements for protecting the river corridor and providing public access, campgrounds and other recreational facilities . . .". He also directed the National Park Service to complete the study by April, 1980.

After objections to this deadline were raised, the target date for completion was left open. The National Park Service is presently proceeding with its study as directed by Congress.

PHILOSOPHY

Recognizing the need to protect the Upper Mississippi, and in response to an overwhelming desire on the part of the residents of the region to do so through local control, State Senator Robert Lessard suggested in the summer of 1979 that there be some joint effort by local governments to protect the River. Subsequent discussions led to the suggestion at a January, 1980 meeting of six counties that a joint powers board be formed to develop a plan to protect the river.

On February 22, 1980 a joint powers agreement was signed by eight counties: Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing, and Morrison. This coalition was named the Mississippi Headwaters Board (MHB) and became the largest (in number) joint powers board in state history.

In response to an inquiry by Sonja Steven, Itasca County attorney, regarding the formation and administration of the Mississippi Headwaters Board, Attorney General Warren Spannaus found the Mississippi Headwaters Board was legally constituted under Minnesota Statutes 471.59 and had the authority to: pay for necessary planning; contract for services in the same manner as individual counties and review zoning decisions of the individual counties regarding the Upper Mississippi.

The stated purpose of the Mississippi Headwaters Board is to: formulate plans for the area under its jurisdiction, and protect the Upper Mississippi River from uncontrolled and unplanned development through the preparation and adoption of a comprehensive management plan for the river and adjacent lands. This management plan will provide for the adoption of strong local zoning ordinances, recreational use of the river and adjacent public lands, donation or purchase of critical lands in the public interest and sound management of existing public lands along the River.

We recognize that concern for the protection of the Upper Mississippi River goes beyond the boundaries of any particular county. The historic signing of the joint powers agreement is a recognition of this fact. We also recognize that any sound, workable plan must consider the views of all the diverse interests affected. Recognizing these concerns the Mississippi Headwaters Board has established advisory committees composed of governmental representatives and citizens representing agricultural, forestry, conservation, industry, recreation, and other interest to assist in developing the plan.

It has been stated that: "A law that gives maximum power to government agencies is not necessarily superior to one that relies on officials' ability to persuade individuals and corporations to restrict harmful development voluntarily."

We believe that our goal is essentially the same as the National Park Service . . . to protect the Upper Mississippi.

What is at issue is not whether the River should be protected, but who should do it. We strongly believe in the proposition that local governments can work together and act responsibly to take sound conservation measures, where needed. The joint powers agreement proves this point.

Will our plan be successful in accomplishing its goal? We believe it will. The only real measure of a successful plan is whether it works. No plan, no matter how well written, can be successful/workable if it does not have significant public support.

The necessity of public support to any successful river protection program has been documented in numerous publications. "Flowing Free," a booklet prepared by The River Conservation Fund, points out that: "Federal, state and local government programs, as well as private sector efforts, all have their potential advantages and disadvantages depending on specific rivers, lands, and climates of public opinion . . . A local government initiative requires the backing of the majority of public opinion."

The public response and support of the Board's alternative plan to Wild and Scenic River designation has been widespread. This can best be demonstrated by newspaper articles and editorial opinion from around the state.

A representative sample of these articles is provided below:

ARTICLES

The Pioneer, Bemidji, January 20, 1980: "This alternative plan will be one of the first of its kind . . . the local control proposal, if successful, could possibly be a model for other parts of the nation in similar situations."

Daily Journal, Int. Falls, February 25, 1980: "It appears that the federal government and eight counties are in a neck and neck race to get their plans through the necessary steps, finalized and ready to present to Congress. If the counties get under the wire first, how do they intend to sell their plan to Congress? 'Very simple,' Lessard said, 'we're going to come up with a better plan.'"

Western Itasca Review, Deer River, February 26, 1980: "The prevailing mood is one of general optimism that the undertaking will be accomplished on time. The job of the local public will then be one of helping sell the joint powers plan to Congress as a preferred alternative to federal designation."

Duluth News-Tribune, Duluth, February 23, 1980: "If you can't beat 'em, join 'em. Eight counties have taken that maxim to heart in the ongoing fight to keep the federal government out of land control in northern Minnesota."

EDITORIALS

Hibbing Daily Tribune, Hibbing, February 19, 1980: "Local control deserves a chance. Credit should go to Lessard and the counties for coming up with this approach. It is one of the best developments in environmental protection in recent years, and we hope for its success."

Daily Journal, Int. Falls, February 15, 1980: "Every once in awhile an idea comes along that is so good it begs to be tried." . . . "President Carter should respect the innovative local effort and give it a chance to flower."

Herald Review, Grand Rapids, February 21, 1980: "An important joint powers agreement to provide local control and protection of the Upper Mississippi River will be signed in Grand Rapids Friday. It is significant for several reasons. First of all, it clearly demonstrates the concern of eight counties for protection of the River. Second, it demonstrates the growing belief that federal protection is not necessarily the best which can be provided."

We realize that if we are to be allowed to do the job ourselves, we must convince skeptics that we are both willing and able to do so. This is done not by rhetoric but by actions. The joint powers agreement and our willingness to help finance our own plan are both positive actions which should serve as a message to all concerned that we are indeed serious about protecting the River. We know it will not be easy. Tough decisions will have to be made; but we have the resolve to do the job ourselves.

In recent years this state, and its people, have struggled through some divisive and bitter battles over tough environmental issues that had to be addressed. Bitter feelings resulted on both sides. It is in this general climate that Mississippi River management now is being faced. No one "wins" from bitter, acrimonious battles over these issues, particularly if they can be avoided. We agree with State Senator Robert Lessard when he said in a recent Minneapolis Tribune article: "I want to protect the river . . . it doesn't mean that the local people have to be on a collision course with the environmentalists."

Because feelings run so strong and deep right now we believe that the National Park Service should give deference and full consideration to our alternative planning effort. We were pleased to read in this same article that Mr. Farrand, study manager for the Park Service, has taken a "wait and see attitude". We are confident that we can demonstrate to the National Park Service and to Congress that we can do a more effective, more timely, and less costly job ourselves.

We have recently learned that the National Park Service is not likely to request federal designation of the St. Cloud to Anoka portion, since it is already under state protection. What we are going to ask then, is that the National Park Service extend to the joint powers board the same consideration and approval to do the job alone as they have extended to the State in its management of the St. Cloud to Anoka segment.

THE JOINT POWERS BOARD PLAN

The joint powers board is comprised of one county commissioner from each county. The MHB was formed for several reasons: to recognize the need for some uniform zoning and land management guidelines; to share in the cost of producing a high quality river protection plan; and to eliminate the possible criticism that a "single county board is too open to local pressure—sometimes to the detriment of natural resources." A recent editorial stated: "A multi-county agency can scrutinize affairs with detached objectivity."

There are several advantages to an interlocal (joint powers board) planning effort. The advantages cited in the State Planning Agency report on interlocal cooperation include:

1. Cooperation is useful in broadening the geographical base for planning and administering governmental services and controls . . . Conflicting land uses, differing codes, confusing jurisdictional rules and inattention to those problems not capable of solution by one unit of government are the main criticisms of the small unit of local government.
2. Cooperation tends to enlarge the scale and administration of local services making lower unit costs possible. This is an obvious advantage to interlocal cooperation—by expanding a service area, communities can take advantage of the economies of scale that often accrue in most services.
3. Cooperation is helpful in guiding the orderly growth of an area. Planning is an especially useful example. If several units of government (including townships, municipalities, and counties) jointly plan the development of an area, the cooperating units of government can prepare for the expansion of governmental services well in advance of the time when serious problems might necessitate stopgap, less than satisfactory solutions.
4. Cooperation is flexible and versatile. One of the outstanding advantages of interlocal cooperation is its flexibility in adapting to new conditions which may develop after communities are already cooperating in a particular local governmental service . . . Everyday problems that can be remedied within the practical framework of cooperation without necessitating major changes in the legal or administrative rules.
5. Flexibility of boundaries. Cooperation has the added advantage of being able to include other units of government in the agreement should they have need for the particular service.
6. Cooperation is politically feasible. Cooperation does not result in the political re-structuring of an area. No units of government are eliminated and, usually none created. Citizens still retain control over the function through their elected and appointed local governmental officials.
7. Cooperation can result in the better performance of a service. Cooperation, if properly performed, can result in the infusion of new ideas and original approaches

to problem solutions that better serve the local citizen . . . This is no small factor in an age of complexity and citizen participation in government.

8. Cooperation protects the political identity of the community. Most persons are extremely proud and protective of their independent political existence. Although municipality may lose partial control over the administration of the function in the process of cooperation, it does not give up its political identity.

As reported in several recent articles, the establishment of a Mississippi Headwaters Board plan offers two primary advantages: cost and responsiveness.

Since the federal government has no direct zoning authority it must rely on acquisition of lands in fee title or interests in land (easements) for its management. Also it can, under conditions described in the Federal Wild and Scenic Rivers Act, exercise condemnation authority. This is primarily where our plans will differ: First, our plan will not use condemnation authority to purchase needed lands; and second, we can adopt and enforce strong zoning ordinances to protect the river at a minimal cost.

Another area of concern and possible difference between the local and federal plans will be the allowable recreational opportunities. We believe that one of the real values of the river to local people and recreationists from outside the region is the diversity of recreational pursuits for which its waters and adjacent public lands are used. This diversity of hunting, fishing, wild ricing, boating, canoeing, snowmobiling, skiing and solitude uses is what makes the Upper Mississippi unique and we want to ensure the perpetuation of all of these activities that people enjoy so much.

Our plan will recommend measures, financed through existing federal, state and local funds, to enhance all of the recreational pursuits that are so important to users.

It is from these concerns also that we believe our alternative plan becomes vital to the continuance of the existing land and water-based recreation activities.

Finally, we must speak to the issue of plan feasibility. We must address the basic question posed by Mr. Farrand in a recent Minneapolis Tribune article where he said: "I don't get the impression that this is a sham by the counties to prevent the federal government from stepping in . . . still the big question is: Will this protect the Mississippi River?"

PLAN ADVANTAGES

To answer this question one should examine what both proposals have to offer. The major advantages of interlocal management are:

1. *Cost.*—By adoption of strong local zoning ordinances, sound management of existing state and county lands, judicious purchase of lands or scenic easements from willing sellers and more use of existing opportunities for land exchanges; we believe the joint powers plan could better protect the River at a lesser cost. In addition, with spiraling land prices we don't believe the 15 million dollar acquisition authority of the Federal proposal will be anywhere near sufficient to buy the easements necessary to protect all the shoreline in the segments proposed for designation.

2. *Responsiveness.*—Because the plan will be prepared by and for the joint powers board it uniquely strikes the balance needed to respond to local concerns while accounting for a broader public concern. In addition, necessary changes can be made to respond to changing circumstances that will occur over time.

3. *Public support.*—Our efforts have already generated considerable local and extra local support. We anticipate cooperating with all the various interests in formulating this plan and making it work. Many resolutions of support have come from diverse groups and from congressmen.

4. *Protection.*—The essential goal of the Mississippi Headwaters Board is to prepare and implement a comprehensive, interlocal plan to protect the upper 400 miles of the Mississippi River. While this plan will provide for facilities and opportunities for the diverse recreational uses of the River and its adjacent lands, we are concerned about overuse that could result from federal designation. An authoritative book on river protection includes these comments on local and regional river programs: "On the plus side, local or regional programs, escaping the publicity that attends federal or state scenic status, are less likely to result in large increases in recreational use." The 1977 U.S. Bureau of Outdoor Recreation on the Upper Mississippi states on page 205 that a ten-fold increase could be expected. We believe that this "turnstile" attitude is contrary to sound river protection; and the increased use could, if realized, pose a significant problem to riparian owners and the quality of the resource itself.

5. *Timing.*—The implementation of the joint powers plan can begin as early as this summer and fall. Zoning ordinances can be adopted and grants can be written

to apply for necessary state and federal funds in 1980. The federal proposal has been discussed since 1974, the BOR has done a study, the National Park Service is now doing one, and it will likely do another management study before acquisition and recreation development begins.

SUMMARY

We believe that a compelling case can and has been made for interlocal management of the upper 400 miles of the Mississippi River from Lake Itasca through Morrison County.

It has been over five years since the Upper Mississippi was designated for study inclusion in the National Wild and Scenic Rivers System, and not a single mile of shoreline upstream from St. Cloud has been protected. Even if the River were designated a component of the National System it would be a considerable time before protection measures would be taken. Further, a recent General Accounting Office (GAO) report cited several problems with the administration of the National Wild and Scenic Rivers System. Among the problems cited were two key ones: too much land is bought in fee title, making it too costly and it takes too long.

Development pressure on the Upper Mississippi is increasing.

The Mississippi Headwaters Board recognizes this and is willing and able to complete its plan and move ahead with river protection measures now—this year. This fact alone makes it a superior effort.

The advantages to this method of river protection have also been described in "Flowing Free," a definitive work on river protection, where it states: "local or private programs can often be more easily tailored to the problems and opportunities presented by a particular river. . . . These kinds of projects, based on local management, local use and voluntary participation, may in the long run protect more miles of river than government wild and scenic rivers programs." We agree.

MISSISSIPPI HEADWATERS BOARD RESPONSE TO ASSISTANT SECRETARY OF INTERIOR ROBERT L. HERBST

1. Interior suggestion—establish the Mississippi Headwaters Board through State statute with provisions for orderly appointment and succession of membership. Fully empower and fund the Board to carry out its plan for management.

MHB response—The MHB consultant, attorney, and National Park Service representatives met with State Attorney General Warren Spannaus and his staff on September 12 to discuss drafting state legislation which would provide for a permanent board and orderly succession of members to it.

The Attorney General's Office has drafted this legislation. Legislative authorship will be solicited by the MHB consultant this fall. The bill will be introduced early in the 1981 Legislative Session.

The MHB consultant has also had discussions with staff in the Governor's Office regarding their support for this bill.

The bill itself will be drafted as a special, rather than a general law. That is, it will be unique to the eight counties which comprise the MHB. It will become effective after passage by the legislature and subsequent approval by the individual county boards.

All the necessary and appropriate functions of the board which require specific legislative action will be incorporated in this bill. (A copy of the proposed legislation is enclosed.)

A specific state funding request will not be included in this bill; rather it will be separately pursued as a possible "line item appropriation."

2. Interior suggestion—Certification power for the Board over the actions of individual counties which implement the plan.

MHB response—A certification procedure has been drafted for the implementation of the zoning ordinance. The need for such a procedure to provide for uniform and fair treatment of landowners has long been recognized by the Board.

This procedure has been drafted by the consultant for MHB approval with two primary objectives in mind. First, that no unjustified exceptions to the ordinance be granted by any particular county, thereby jeopardizing the cooperative nature of MHB organization or the purpose of the plan itself. Second, to limit the amount of additional paperwork so to provide for reasoned, yet timely decisionmaking on landowner applications.

From the first organizational meeting of what has subsequently become the Mississippi Headwaters Board, the county commissioners were aware of the necessity of a certification procedure for certain limited zoning decisions.

It is for this reason that an Attorney General's opinion was requested through the office of the Itasca County Attorney to determine if such authority could be assumed by the Board, after individual county board approval.

This procedure was not incorporated into the draft plan because such authority was determined by the Attorney General to be "non-delegable"; and that such a change would require specific statutory authority.

The need for a permanent board and for a board review and approval mechanism was also recognized and discussed by citizens who attended the public meetings in August.

This certification procedure would apply not to the entire ordinance. Rather, it would be applied only to variances, rezonings, and inconsistent platting which if unnecessarily granted by a particular county would have the effect of negating the objectives of the Board's plan.

Finally, the certification procedure drafted by the Board's consultant cannot be included in the ordinance to be adopted by the counties until after the enabling legislation has been passed by the state legislature and approved by the respective county boards.

This certification procedure would subsequently be added as an amendment to the Mississippi River ordinance (See enclosed).

3. Interior Suggestion.—Professional staff for the Board to support its activities and for monitoring of compliance with the plan. Develop a compliance monitoring procedure.

MHB Response.—A budget for board operation has been prepared for the two-year period beginning June 30, 1981.

The budget is broken down into major expenditure categories; including administration, travel, expenses, and legal counsel, etc.

It is anticipated that state funds will be requested for this part of the budget since it is the implementation of the plan and the exercise of its multi-county responsibilities which constitute the unique alternative to federal designation.

The Board's staff will assist in coordinating the cooperative activities described in the plan. Staff will also monitor and report on progress made toward the implementation of the objectives contained in the plan. Staff will also be responsible for monitoring, in cooperation with individual county staff, the compliance with the comprehensive zoning ordinance adopted as a part of the MHB resource management plan.

In addition, each of the member counties presently have a specific and thorough monitoring procedure to insure compliance with shoreland ordinances. This procedure involves field inspection of individual sites. Existing procedures also provide penalties for non-compliance. Since this compliance has over the years proven effective, we are not recommending any change to it.

The budget for the administration of the project and for staff support itself is detailed in the enclosed budget sheets.

4. Interior Suggestion.—Expand the plan to more adequately discuss responsibilities for operation, maintenance, and replacement of recreation features in the river corridor. Further discuss the actual management of recreational activities in the plan to include control of litter, vandalism, trespass, and other resource damaging activity, and the availability of visitor health, safety, and information services.

MHB response.—There are a considerable number of recreational sites along the Upper Mississippi, which have been developed and are being maintained by the respective Federal, State, and local agencies.

However, in accordance with the Headwaters Board plan additional recreational sites will be developed. Such sites will include camping, day use, and interpretive activities for the user. Where feasible, those facilities will be developed on existing publicly-owned lands. Where such public lands are not available, the counties will seek to acquire such lands, where willing sellers are available.

These recreation sites are identified and described in detail in the revised plan.

The board's consultant has also had several meetings with state and federal personnel to discuss the need to coordinate recreation site development and maintenance in order to avoid duplication of facilities or unnecessarily increasing maintenance costs.

Rehabilitation of existing sites, particularly in the headwaters stretch of the river, has also been discussed with responsible DNR personnel. All seem to agree that these sites need rehabilitation.

The recreation management of the river currently involves not only the counties but the U.S.F.S., Corps of Engineers, Minnesota Department of Natural Resources, Minnesota Department of Transportation, and others.

MHB staff will work with these agencies to implement the recreation management plan.

In general, it should be noted that there is no recommendation that this multi-agency recreation system be changed. That is, maintenance, trespass and enforcement problems will be handled by the administering agency (i.e. DNR for state lands, county on county lands, etc.)

Regarding resource damaging activities, there are several possibilities that will be addressed. First, for violations of the vegetative cutting, grading and filling, dumping provisions of the ordinance, there are specific penalties and county enforcement procedures to handle these. Usually the county zoning officer or land commissioner (if county land is involved) works with the county sheriff's office on these matters. The Board itself could assist in review and possible litigation, where the individual counties request assistance.

With regard to any activities which affect the "course, current or cross section" of public waters (Mississippi River), a permit is required from the Department of Natural Resources. Minnesota Statutes Chapter 105 assigns review, approval and enforcement responsibility to the DNR. The specific enforcement procedures have generally been assigned to the DNR regional offices. Hydrologists from the Department's Division of Waters in cooperation with its Division of Enforcement and Field Service, investigate and where necessary, seek prosecution of violators.

For activities which affect water quality, the Minnesota Pollution Control Agency has authority to investigate violations and seek prosecution of alleged violators.

Finally, many activities which could affect the River, its adjacent wetlands, or shoreland area require a U.S. Army Corps of Engineers permit. For certain activities a variety of county, state, and federal permits are presently required.

Many Corps of Engineers permits already require review prior to issuance of several federal agencies such as the U.S. Fish and Wildlife Service, U.S. Forest Service, etc.

In summary, there already exists, under state and federal law, adequate authority to monitor, review and enforce any resource damaging activity which might affect the river. The board believes this to be adequate to protect the river; but it also believes it can be helpful by playing a role in referring persons to the proper agencies for required permits prior to their undertaking certain activities, in order to avoid costly litigation.

Finally, regarding visitor information and safety services, there currently exists a myriad of ways of obtaining needed information.

The Mississippi is designated a Canoe and Boating Route under M.S.A. 85.32. The DNR is assigned responsibility to administer this program. Maps and other information about this entire portion of the Upper Mississippi are currently available from the Department. In addition, M.S.A. 85.32 requires the DNR to mark river hazards such as rapids, dams, whirlpools, etc. and allows them to acquire, develop and maintain recreation sites along the Mississippi. The DNR can also cooperate with local governments in marking hazards and providing public recreation sites.

The MHB consultant has discussed the marking of some river hazards and the cooperative development of recreation sites. It is anticipated that work on some of the sites identified in the plan would begin in the spring of 1981. In addition, MHB staff have begun meeting with operators/owners of private dams along the river in order to provide signing and portages around these dams.

5. Interior suggestion—A commitment in the plan to a balance of land acquisition with the large-lot zoning which is proposed. Acquisition priorities and policies in the plan which indicate that an active land acquisition program will be required, under appropriate state or local authority, to adequately protect the Upper Mississippi River.

MHB response—Regarding land acquisition, the Board will pursue this in the same manner and under the same conditions as that generally described in its joint powers agreement and the revised plan.

That is, the Board recognizes that certain shorelands deserve greater protection than that which can be provided solely through zoning.

Within available funding, this program to supplement the zoning ordinance will be "active" but it will not be expensive. The MHB, and its member counties, will attempt to consolidate river ownerships primarily through land exchanges between the counties and the state office of U.S.F.S., where such exchanges are feasible and desirable. Intergovernmental exchanges are viewed as a feasible method of consolidating shoreland ownerships because the counties have such a large ownership base to trade with. (Seven of the eight member counties are among the top ten in the state in percentage of public ownership.)

Also, land exchanges with willing private owners will also be pursued. These opportunities will be specifically examined within the next two years.

Where land purchases are desirable, it would be accomplished within funds available for this purpose and where willing sellers are available. Some counties have already acquired fee title or scenic easements along the River through donation or purchase. These acquisitions have occurred just over the course of the MHB planning process. A proposed biennial budget for this purpose is enclosed.

6. Interior suggestion—The funding program outlined in the draft plan is a collection of existing revenues and competitive grants. Further, the funding sources cited are largely land acquisition and facility development programs and do not comprehensively address operation, maintenance, and replacement of recreation facilities; compliance monitoring and enforcement of the plan; or additional staff for the Board and counties needed to carry out the plan. Some source for adequate funding of plan implementation and long-term resource management needs is required.

MHB response—The questions raised here are essentially a restatement of those concerns previously identified. However, we can elaborate further regarding the funding concerns.

Although federal and state grant programs listed in the MHB plan are competitive in nature; the Board believes it will be in an excellent position to compete for such funding. Planning/zoning and recreational acquisition/development grant requests that address a regional (multicounty) need are given priority consideration by the responsible state and federal agencies.

The MHB consultant has already had discussions with the state agency personnel responsible for grant administration. Although no commitments could be made until after the formal application review process, we were encouraged by our discussions with them.

In addition, the MHB consultant has also had discussions with key state and federal elected officials regarding the possibility of direct state appropriations to fund the necessary staff and other support for long-term operations of the board. Because the state budgetary processes are not presently before the Legislature, it is not possible to guarantee such funding will be available, just as the National Park Service is unable to provide the public with a guarantee of full federal funding for its proposed program.

On the other hand, based on the important contacts already made, we believe that it is more likely that such appropriations for the implementation of the board's plan will be made, than the possibility of timely funding for the National Park Service's multi-million dollar proposal. We make this assumption based on the reasons that the board's management plan is: 1) far less costly; 2) has received widespread public support; and 3) existing state and federal grants have already been obligated to carry out some of the activities proposed in the MHB plan.

Finally, we have provided a detailed budget sheet showing project costs, anticipated funding sources, and a breakdown of projected local, state and federal cost-sharing to implement the various aspects of the project.

7. Interior suggestion—Explore the relationships between the Board, the Chippewa National Forest, and the Leech Lake Indian Reservation in the plan.

MHB response—As was stated at the September 4 board meeting by Board Vice Chairman and Cass County Commissioner Virgil Foster, the Board long ago solicited input from the U.S.F.S. and the Leech Lake Indian Reservation.

In March/April 1980, when the advisory committees were formed, it was recognized by the board that participation of these interests, along with many others, was desirable. Accordingly both verbal and written invitations to participate in the MHB planning process were extended to representatives of the Leech Lake Indian Reservation. A written response, declining participation, was received by the board from their representative.

In light of the August 29 Herbst letter, another written invitation to participate on the advisory committee will be extended to the Leech Lake Indian Reservation by the MHB.

Similarly, requests for participation by the U.S.F.S. were also made by board members. Board members were informed by U.S.F.S. personnel that formal participation by these officials was not possible at the time due to the administration's support and directive to the National Park Service to conduct a study for National Wild and Scenic River designation. Since the September 4 National Park Service/Mississippi Headwaters Board meeting the consultant has met with Forest Service personnel to discuss areas of mutual cooperation in furthering the river protection objectives of the Headwaters Board plan. The consultants have also discussed future meetings with Forest Service personnel. The U.S.F.S. personnel have subsequently expressed a desire to cooperate with the Board in the implementation of its plan.

The MHB consultants have also met with representatives of Department of the Interior's Bureau of Land Management. This federal agency was subject to constraints similar to those affecting the Forest Service with regard to participation in the MHB study. The BLM has indicated that it is interested in cooperating with whatever agency is given final management responsibility for the Upper Mississippi River.

The Board has recognized from the start of its process that these "landowners" had a necessary role in the development of the plan itself and in its implementation.

The Board feels obliged to emphasize, for the record, that the lack of participation by these entities is a result of the constraints caused by the federal government's position on national river designation, not by an oversight or by lack of recognition by the Mississippi Headwaters Board of their legitimate role.

8. Interior suggestion—Clarify some elements of the plan's model zoning ordinance.

MHB response—Specific ordinance changes suggested by the National Park Service staff, the advisory committee members and the general public have been incorporated into the revised ordinance. The specific changes recommended by the consultant for the board's consideration are enclosed.

In general, the recommended changes include those measures which would strengthen the ordinance, clarify its purpose, and eliminate inconsistencies in language or intent.

U.S. Department of the Interior,
Washington, D.C., November 24, 1980.

Mr. Alf Madsen,
Chairman, Mississippi Headwaters Board,
Grand Rapids, Minn.

Dear Mr. Madsen: The Department of the Interior has completed review of the Upper Mississippi River Management Plan revisions submitted with your letter of October 22, 1980. This review included consultations with the Minnesota Department of Natural Resources, the U.S. Forest Service, the Leech Lake Reservation Business Committee, and the Joint Upper Mississippi River Task Force, a coalition of Minnesota conservation organizations. Enclosed you will find our specific comments on the revisions.

Although the Mississippi Headwaters Board has acted to finalize its plan and proceed with implementation, I hope the Board will incorporate these comments either through legislation, advanced planning, or cooperative agreements with participating management agencies. The comments are intended to point out potential problem areas that could impair the Board's ability to establish a sound program of protection for the river. The comments could appropriately be incorporated in planning and coordination efforts of the Board that take place during implementation of the adopted plan. The final management plan appears to provide the framework that will allow accommodation of solutions to these problem areas in the near future.

The Mississippi Headwaters Board has reached a major milestone in the adoption of its river management plan and is proceeding towards future milestones which include adoption of the plan by individual counties, enactment of state legislation supporting the Board's powers, and obtaining adequate funds to implement your river management goals. You are to be congratulated for your work.

I continue to believe that the Upper Mississippi River is a resource of national significance and, therefore, meets the criteria for designation as a component of the National Wild and Scenic Rivers system or is a candidate for an Area of National Concern. However, pursuant to the Management Plan you have adopted and complementary state legislation, if strong and consistent protection and management of this important resource can be provided at local and state levels, it is the position of the Department of the Interior that those levels of government should undertake the task.

Accordingly, while the National Park Service will move expeditiously to finalize the conceptual master plan for the Upper Mississippi River, as requested by President Carter in August 1979, the Department will recommend to the President that the final version of the conceptual master plan be held in abeyance and not transmitted to the Congress with proposed legislation adding the Upper Mississippi River to the Wild and Scenic Rivers system.

At the same time, this Department continues to receive many requests for an opportunity to offer public comment on the Park Service's approach to protection of the Upper Mississippi River. As you recall, the public participation process for the Park Service conceptual plan was deferred to facilitate a cooperative approach between the Service and the Board. In view of the continuing interest in proceeding with the public meetings previously planned, the Park Service will conduct public meetings on its plan on December 3 and 4 in Bemidji and St. Paul, Minnesota, respectively. The notice for these meetings will indicate that the Service is soliciting comments on its draft master plan, in compliance with its mandate from the President. Comments will be received at those meetings from those who desire to present testimony comparing the National Park Service conceptual master plan with the Mississippi Headwaters Board Management Plan. To this end, the Service would greatly benefit by the presence at both meetings of a representative of the Board or your consultant.

While the attached comments on the proposed state legislation mentions the Board's relationship with the Leech Lake Indian Reservation, I wanted to add that the Reservation Business Committee continues to express serious reservations to the Department regarding the Management Plan's implication on lands within the Reservation. Despite the language in your October 22, 1980, letter to me (pages 7 and 8) on the Board's dealing with the Reservation Business Committee, Chairman Hartley White and the Reservation Business Committee remain concerned about the impact of your plan on the Reservation. Specifically, there is concern over any plan that includes the possibility of zoning Indian-controlled land within the Reservation.

The Department hopes the Mississippi Headwaters Board will be able to bring about a cooperative relationship with the Reservation Business Committee of the Leech Lake land. It would seem to me that a common objective among the several interests—including the Indians and the Counties—would be the adoption of mutually-agreeable zoning restrictions that are compatible with sound resource-protection principles.

As the implementation and operation of the Mississippi Headwaters Board plan proceeds, the Department of the Interior will continue to work with you in every way we can to promote our common goal of providing quality protection of the remarkable values of the Upper Mississippi River.

Sincerely,

ROBERT L. HERBST,
Assistant Secretary for Fish and Wildlife and Parks.

THE MISSISSIPPI HEADWATERS BOARD—A CHRONOLOGY OF THE MAJOR EVENTS LEADING TO PROTECTION OF THE UPPER MISSISSIPPI RIVER

1968—Creation of the National Wild and Scenic Rivers System.

1974—Mississippi River between Anoka, Minnesota and its source at Lake Itasca (466 miles) added to the National Wild and Scenic Rivers Act Study list by Congressional action.

1975—The former Bureau of Outdoor Recreation (BOR) begins its study of the river.

1976—The 52 mile portion of the river between St. Cloud and Anoka, Minnesota added to the state wild and scenic river system.

1977—BOR published its report which recommended 12 segments totaling 353 miles be included in the National Wild and Scenic Rivers System.

1978—Attempt to designate 10 segments upstream from St. Cloud as federally administered components of the National System fails in Congress.

1978—BOR restructured and renamed Heritage Conservation and Recreation Service. Responsibility for Federal Wild and Scenic River studies transferred to the National Park Service.

August 1979—President Carter's Environmental Message to Congress reaffirms the administration's support for Wild and Scenic River designation of the Upper Mississippi. The President directs the National Park Service to prepare a "master plan" for the river. This is an unprecedented step beyond the normal designation process. Deadline for completion is set for April, 1980.

Fall 1979—National Park Service begins its planning effort. Original deadline is surpassed; final completion date is left open.

December 1979—Representatives of several counties along the Upper Mississippi and other interested citizens meet to discuss state Senator Lessard's proposal for local management of the river.

February 1980—Formal joint powers agreement signed by eight counties (Clearwater, Hubbard, Beltrami, Itasca, Aitkin, Cass, Crow Wing, and Morrison) for local management of the river. Known as the Mississippi Headwaters Board (MHB), it is the largest joint powers board of its kind in state history.

Spring 1980—Both the National Park Service and the MHB work independently on separate plans for river management. Numerous meetings are held. MHB plan receives support from 7 of the 8 Minnesota Congressman, both Senators, the Governor, Attorney General, and Commissioner of Natural Resources.

July 1980—MHB releases the first draft of its management plan for the Upper Mississippi River.

August 1980—National Park Service releases the first draft of its Conceptual Master Plan for the proposed Upper Mississippi National Wild and Scenic River.

The MHB conducts informational meetings throughout the eight county area to receive comments on its plan.

August 5, 1980--Officials from the Department of the Interior meet with representatives from the MHB to discuss the two proposals.

August 29, 1980—Assistant Secretary of the Interior Herbst sends a letter to the MHB suggesting certain measures that would ". . . provide a sound basis for local and state management of the Upper Mississippi River."

September 4, 1980—National Park Service staff meets with MHB to discuss Herbst's suggestions. The MHB unanimously passes resolutions to adopt the suggestions and negotiate with the NPS representatives. NPS cancels scheduled meetings on its proposed plan.

October 1980—MHB finalizes plan.

November 1980—MHB holds public informational meetings with each of the eight county boards. Department of the Interior completes its review of the proposed county plan.

December 1980—National Park Service holds public meetings to announce it will hold its plan in abeyance to allow successful implementation of the MHB plan.

MHB and county boards adopt the new zoning provisions at public hearings in each county. Ordinance approved by a vote of 39 to 1.

Janaury 8, 1981—Senate File No. 2 introduced in the state Senate. The bill would grant permanent stature to the MHB and give it certain additional authorities for management of the Upper Mississippi.

January 15, 1981—MHB formally approves final management plan document.

February 25, 1981—MHB representatives meet with Leech Lake Indian Reservation officials to discuss cooperative management of the portion of the river within the reservation.

March 5, 1981—State Senate Agriculture and Natural Resources Committee unanimously approves Senate File 2.

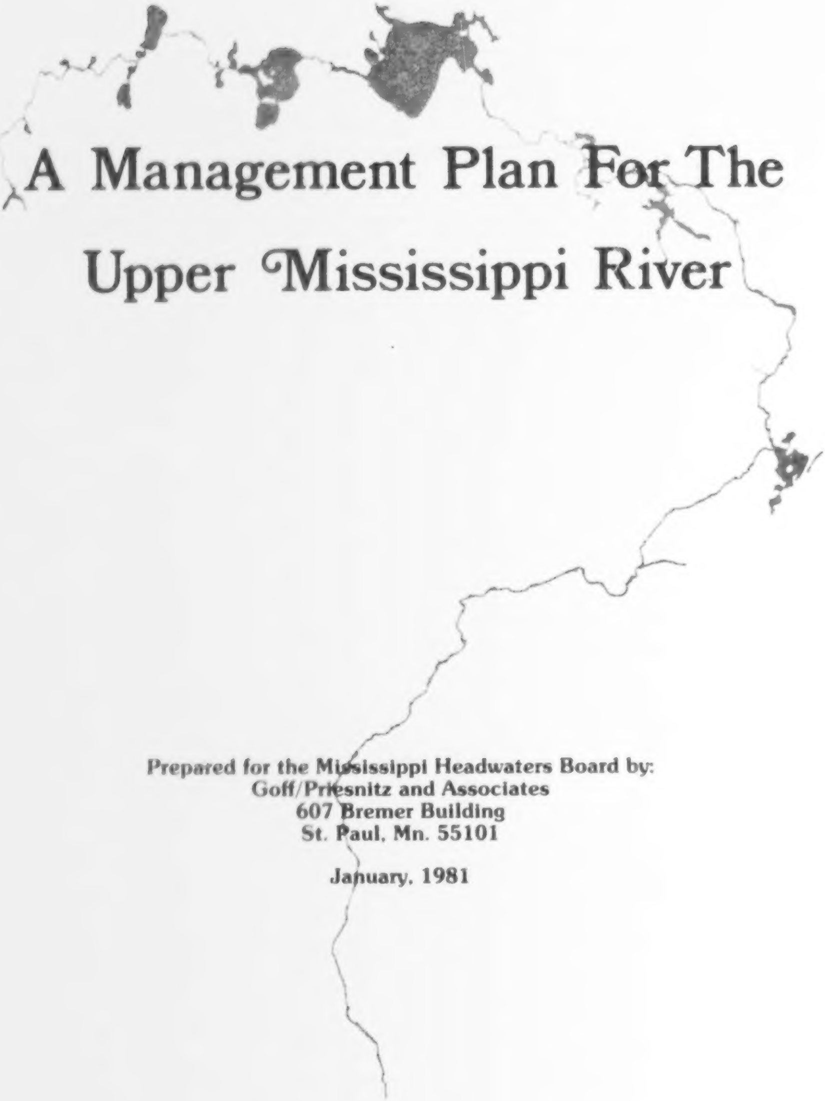
March 19, 1981—House Recreation and Open Space Subcommittee unanimously approves HF 510, companion bill to SF 2.

March 27, 1981—Legislation Commission on Minnesota's Resources approves funding request for MHB.

April 1, 1981—Full Senate passes S.F. 2. by a vote of 63-0.

April 21, 1981—House Environment and Natural Resources Committee unanimously approves MHB bill.

April 1981—MHB funding approved at various subcommittee hearings in the state House and Senate.



A Management Plan For The Upper Mississippi River

Prepared for the Mississippi Headwaters Board by:
Goff/Priesnitz and Associates
607 Bremer Building
St. Paul, Mn. 55101

January, 1981

SUMMARY

Background Legislative History

On January 3, 1975, the President signed P.L. 93-621 which authorized a study of the upper 466 miles of the Mississippi River from Lake Itasca to Anoka for possible designation as a National Wild and Scenic River.

In October, 1975, the preliminary draft plan prepared by the U.S. Bureau of Outdoor Recreation (BOR) was completed, and in May, 1977, Assistant Secretary of Interior Robert Herbst submitted the study and Environmental Impact Statement (EIS) to Congress and President Carter.

On June 15, 1977 S. 1697, a bill which would designate the ten segments recommended in the BOR study, was introduced in the Senate. On October 31, 1977, H.R. 9855, which would amend the National Wild and Scenic Rivers Act to designate the Upper Mississippi, was introduced.

In January, 1978, Congressman Oberstar succeeded in amending the bill to require a more complete, specific study. The Mississippi designation provision was subsequently deleted from the Omnibus Parks and Recreation Bill passed by Congress.

In August, 1979, President Carter included the Upper Mississippi in his Environmental Message and called for a study "to determine the specific requirements for protecting the river corridor and providing public access, campgrounds and other recreational facilities . . . ." He also directed the National Park Service to complete the study by April, 1980.

After concerns about this deadline were raised, the target date for completion was left open. The National Park Service proceeded with its study as directed by Congress.

The Mississippi Headwaters Board

On February 22, 1980, a joint powers agreement was signed by eight counties: Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing, and Morrison. This coalition was named the Mississippi Headwaters Board (MHB) and became the largest joint powers board of its kind in state history.

The stated purpose of the Mississippi Headwaters Board is to formulate plans for the area under its jurisdiction, and protect the Upper Mississippi River from uncontrolled and unplanned development through the preparation and adoption of a comprehensive management plan for the river and adjacent lands. This management plan will provide for the adoption of strong local zoning ordinances, recreational use of the river and adjacent public lands, donation or purchase of critical lands in the public interest and sound cooperative management of existing public lands along the River.

The MHB was formed under the authority granted in M.S.A. 471.59 referred to as the "Joint Exercise of Powers Act." This law was passed in 1943 and was modeled after the California legislation. The legislation is a general authorization to allow any local governmental units to cooperate in exercising any power held in common. The original law was amended in 1961, 1965 and most recently in 1973. The purpose and effect of these amendments was to broaden the authority for interlocal cooperation.

According to Minnesota State Planning Agency surveys of interlocal cooperation in 1965 and 1974, "over 2,000 examples of cooperation, including over 250 separate and discrete categories of local service were discovered."

In response to an inquiry by Sonja Steven, Itasca County attorney, regarding the formation and administration of the Mississippi Headwaters Board, Attorney General Warren Spannaus found the Mississippi Headwaters Board was legally constituted under Minnesota Statutes 471.59 and had the authority to pay for necessary planning, contract for services in the same manner as individual counties and review zoning decisions of the individual counties regarding the Upper Mississippi.

There are many advantages to interlocal cooperation. The most important advantages of such cooperation cited in a Minnesota State Planning Agency manual entitled "Interlocal Cooperation" include:

1. Cooperation is useful in broadening the geographical base for planning and administering governmental services and controls. Conflicting land uses, differing codes, confusing jurisdictional rules and inattention to those problems not capable of solution by one unit of government are the main criticisms of the small unit of local government.

2. Cooperation tends to enlarge the scale and administration of local services making lower unit costs possible. This is an obvious advantage to interlocal cooperation — by expanding a service area, communities can take advantage of the economies of scale that often accrue in most services.

3. Cooperation is helpful in guiding the orderly growth of an area. Planning is an especially useful example. If several units of government (including townships, municipalities, and counties) jointly plan the development of an area, the cooperating units of government can prepare for the expansion of governmental services well in advance of the time when serious problems might necessitate stopgap, less than satisfactory solutions.

4. Cooperation is flexible and versatile. One of the outstanding advantages of interlocal cooperation is its flexibility in adapting to new conditions which may develop after communities are already cooperating in a particular local governmental service. . . . Everyday problems that occur can be remedied within the practical framework of cooperation without necessitating major changes in the legal or administrative rules.

5. Flexibility of boundaries. Cooperation has the added advantage of being able to include other units of government in the agreement should they have need for the particular service.

6. Cooperation is politically feasible. Cooperation does not result in the political re-structuring of an area. No units of government are eliminated and, usually none created. Citizens still retain control over the function through their elected and appointed local governmental officials.

7. Cooperation can result in the better performance of a service. Cooperation, if properly performed, can result in the infusion of new ideas and original approaches to problem solutions that better serve the local citizen. This is no small factor in an age of complexity and citizen participation in government.

8. Cooperation protects the political identity of the community. Most persons are extremely proud and protective of their independent political existence. Although a governmental unit may lose partial control over the administration of the function in the process of cooperation, it does not give up its political identity.

The Mississippi Headwaters Board Plan

This plan describes the methods for providing interlocal management of the Upper Mississippi River to protect and enhance its unique qualities.

The plan establishes guidelines and minimum standards for cooperative local management of the upper 400 miles of the Mississippi River from Lake Itasca to the southernmost boundary of Morrison County.

Through the implementation of this plan, the local governments would undertake a sound resource management program to protect the river in three primary ways by: (1) adopting a comprehensive zoning ordinance, (2) implementing a recreation management plan to provide for recreational use of the river and adjacent public lands, and (3) establishing common policies and cooperative agreements for the improvement of existing public lands.

Specifically, interlocal river management by the three fold approach described above would be accomplished by:

1. Zoning — A comprehensive local zoning ordinance which contains minimum standards for the use of river shoreline and a system for interlocal review of certain decisions would be adopted by the individual counties. A river management area (zoning district) would be established after public hearings are conducted. This ordinance would allow the individual counties flexibility in local administration while providing consistency among counties regarding minimum development standards.
2. Recreation Management — The plan also recommends the establishment of some new recreation sites and the rehabilitation of some existing ones. Most sites are on existing public lands, though some are proposed for purchase, if the landowners are willing to sell and financing is available. The plan highlights the diversity of recreational uses of the river for hunting, fishing, camping, ricing, boating, canoeing and many others, and recommends measures to improve these opportunities.
3. Land Management — The plan recommends the adoption of cooperative agreements between federal, state, and local units to provide common management goals for existing public lands along the river. It also recommends management policies for the retention and improvement of existing public lands along the river for fish and wildlife habitat and recreational use. Further, it recommends consolidation of public ownerships along the river through land exchanges.

The **major points** of difference between this plan and that likely to be developed by the National Park Service are that **the MHB Plan:**

1. Does not propose any new federal authority or role.
2. Relies primarily on local zoning authority and use of existing public lands and authorities to protect the river rather than relying on significant new purchases of land or interests in land.
3. Where some new purchases are recommended to provide new recreation sites or shoreland protection, it would be solely on a willing seller basis, rather than the possible use of condemnation to acquire lands or interests in lands, under the terms and conditions prescribed in the National Wild and Scenic Rivers Act.
4. Recommends the continuance and enhancement of the full range of recreational pursuits. (Note: At this time it is uncertain what specific National Park Service recommendations will be in this regard.)

Mississippi Headwaters Board Plan Advantages

This plan for interlocal management has several advantages over the National Park Service Proposal for river management. Specifically these advantages include:

1. Cost

By adoption of strong local zoning ordinances, sound management of existing state and county lands, judicious purchase of lands or scenic easements from willing sellers and more use of existing opportunities for land exchanges, we believe the joint powers plan could better protect the river at a lesser cost. In addition, to buy the easements necessary to protect all the shoreline in the segments proposed for designation would be enormously costly and would entail use of condemnation authority.

2. Responsiveness

Because the plan has been prepared by and for the joint powers board, it uniquely strikes the balance needed to respond to local concerns while accounting for a broader public concern. In addition, necessary changes can be made to respond to changing circumstances that will occur over time.

3. Public Support

This project has already generated considerable local and extra local support. All the various interests have assisted in formulating this plan. Many resolutions and letters of support have come from diverse groups and elected officials.

4. Protection

The essential goal of the Mississippi Headwaters Board is to prepare and implement a comprehensive, interlocal plan to protect the upper 400 miles of the Mississippi River. While this plan provides for facilities and opportunities for the diverse recreational uses of the river and its adjacent lands, we are concerned about overuse that could result from federal designation. ***Flowing Free,*** an authoritative book on river protection, includes these comments on local and regional river programs: "On the plus side, local or regional programs, escaping the publicity that attends federal or state scenic status, are less likely to result in large increases in recreational use." The 1977 U.S. Bureau of Outdoor Recreation report on the Upper Mississippi states that a ten fold increase in use could be expected. We believe this to be contrary to sound river protection. The increased use could, if realized, pose a significant problem to riparian owners and the quality of the resource itself.

5. **Timing**

The implementation of the joint powers plan can begin immediately. Zoning ordinances can be adopted and grant proposals can be written to apply for necessary funds. The National Park Service proposal has been discussed since 1974, the Bureau of Outdoor Recreation has done a study, the National Park Service is now doing one, and it will likely do another management study before acquisition and recreation development begins.

Response of the Department of the Interior

In August, 1980, the National Park Service released its Draft Conceptual Master Plan for the Upper Mississippi River as a proposed National Wild and Scenic River.

On August 29, however, Assistant Secretary of the Interior Robert L. Herbst sent a letter to the Mississippi Headwaters Board suggesting that the Board act to adopt certain provisions that he said ". . . would make the Mississippi Headwaters Board plan a strong, comprehensive mechanism for the protection and management of the river." Shortly after receiving this letter the Board voted unanimously to initiate actions, including legislative action, to follow through with the suggestions.

On October 22 the Board authorized their consultant to send a detailed response summarizing the proposed changes to the management plan to Assistant Secretary Herbst.

Assistant Secretary Herbst responded on October 30 with a letter thanking the Mississippi Headwaters Board for ". . . expeditiously and thoughtfully . . ." responding to his letter. He indicated that the Department of the Interior was reviewing the proposed plan and would ". . . respond to you by November 17."

On November 26 Assistant Secretary Herbst endorsed local management of the Upper Mississippi River but pointed out some concerns he had in regard to ". . . potential problem areas . . ." of the M.H.B. plan. He indicated that the National Park Service's Conceptual Master Plan would be ". . . held in abeyance . . ." to allow for the successful implementation of the Mississippi Headwaters Board plan.

Board and Committee Members

This plan was prepared under the direction of the Mississippi Headwaters Board, a joint powers board composed of one county commissioner from each of the eight counties.

The Board was created under the authority and consistent with the policies set forth in M.S.A. 471.59. The board members during 1980 were:

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Lloyd Nesseth, Recording Secretary
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Consultants to the Board

The Board also appointed two advisory committees to advise them in the preparation of this plan. The Board wishes to express its gratitude particularly to the members of its citizens advisory committee who gave their time and expertise, without compensation, to complete this plan.

The members of these committees are:

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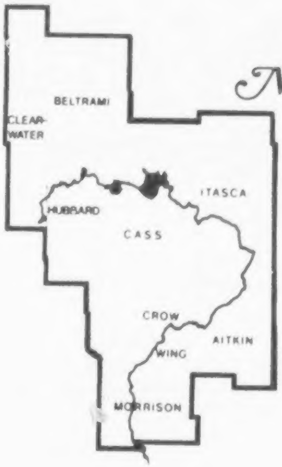
Preparation of this management plan was financed solely through local government and private contributions.

The Board appointed a fund raising committee to act on its behalf in soliciting private contributions from a wide variety of sources. The fund raising committee has been quite successful in its efforts and the Board would like to express its appreciation. The fund raising committee members are:

Mr. Harold Zigmund, Chairman
State Senator Bob Lessard
Mr. Alvin Hauge
Mr. Lloyd Nesseth

Finally, the Board wishes to express its sincere appreciation to those individuals and organizations who contributed financially — without these expressions of support this effort would not have been possible.



Mississippi Headwaters
Board

Representing:

Clearwater
Hubbard
Beltrami
Cass
Itasca
Aitkin
Crow Wing
Morrison

Box 621
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The Resource

PREHISTORY AND HISTORY

No discussion of the Upper Mississippi River would be complete without mention of its tremendous historical significance to both the region and the nation. The history of the Upper Mississippi Valley is the story of a transition from a vast wilderness to an urban civilization — a transition that took place in less than two centuries. The actors in this drama were as varied and colorful as any in the history of the westward expansion of the country. The following is a brief summary of some of the major events and characters involved in the exploration and settlement of the Upper Mississippi region.

Prehistory

Prior to the 17th century European explorers, the Upper Mississippi region had been occupied from at least 8000 B.C. by various Indian cultures. The first, known as the Paleo Indian period, is represented by only a few surface archaeological specimens.

There is greater evidence of the Eastern Archaic culture, which existed from 5000 to 1000 B.C. There are two primary archaeological sites in Minnesota representing this culture. The Itasca Bison kill site was discovered in 1937 during the construction of a park road across Nicollet Creek, which is a tributary to Lake Itasca. It was there that ancient bison bones and human artifacts were found when archaeologists from the University of Minnesota excavated the area in 1964 and 1965. They found evidence which indicated that these Indians were small groups of migrants who lived by hunting, fishing, and gathering edible plants. Dog skeletons indicate that the animal had already been domesticated which is the first such evidence in Minnesota.

The second site is White Oak Point on the banks of the Mississippi near Deer River. This site takes on added importance because it shows evidence of having been occupied periodically from about 1500 B.C. to modern times. It represents the transition period between the Eastern Archaic culture and the succeeding Woodland culture which began at about 1000 B.C.

The Woodland culture is very well represented in the Upper Mississippi Valley. In fact, most of the archaeological sites along the river are from this period. Earthen burial mounds, campsites, and villages have been excavated by archaeologists. The burial mounds located in Itasca State Park near the headwaters area are an example of mounds created by this culture. These people were characterized by the gradual development and absorption of new cultural traits such as more permanent villages, the use of wild rice as a food source, the use of the bow and arrow, the making of pottery, and the use of birch bark canoes.

This culture gradually merged into the historic period which began about 1700 with the coming of the first European explorers. These early explorers found the Cree and Assiniboin tribes in the Upper Mississippi region along with the Dakota. The Dakota (Sioux) were later forced to move south and west by the Ojibway (Chippewa). The Cree and Assiniboin were moved northwestward into what is now Canada.

History

The conflict between the Ojibway and the Dakota continued for many years until the eventual settlement of the region by white settlers in the mid and late 1800's. There were many battles between these two proud nations along or near the Mississippi River. The Ojibway, who obtained firearms earlier than their enemies, were able to force their way steadily south and west.

In 1736 two major battles between these tribes occurred on the shores of what is now known as Cut Foot Sioux Lake. In the first battle the Dakota were victorious. After the confrontation they built a mound in the shape of a turtle at the battle site to commemorate their victory. Later that year, however, the Ojibway returned and massacred the Dakota to the last man. They, in a symbol of defiance, built a symbolic earthen snake around the Dakota turtle to show how they had surrounded their enemies. The snake head was pointed to the south to warn others of future plans. Cut Foot Sioux Lake takes its name from a Dakota warrior who was killed during the second battle on the spot. The turtle and snake mounds are still visible on the lake's shores.

In 1768 the Ojibway again defeated the Dakota at the mouth of the Crow Wing River.

In 1805 the Ojibway had established a village of 15 lodges at the mouth of the Pine River. The maps of the Lewis and Clark expedition (1804-1806) show the Ojibway as firmly in control of the Upper Mississippi area with the Dakota occupying a huge area to the west and south of the Crow Wing and Mississippi rivers.

The 1825 treaty of Prairie du Chien established an imaginary boundary between the two nations which crossed the Mississippi at the present site of Sartell. This boundary was crossed many times, however, and fighting between the two antagonists continued for many years. By 1855 the Ojibway had been concentrated on several reservations and the Dakota had been restricted to a reservation along the Minnesota River. While the United States government clashed many times in various wars against the Dakota, both in Minnesota and the Great Plains, there was only one real conflict of arms with the Ojibway. The so-called Battle of Sugar Point on Leech Lake in 1898, a minor skirmish, was the last recorded battle between United States forces and Indians.

While these territorial conflicts between the Ojibway and the Dakota continued in the Upper Mississippi Valley, the European explorers and fur traders began to infiltrate the area. French and English fur traders were among the first Europeans to enter the upper reaches of the river. They trapped animals and traded with the Indians for furs, particularly beaver pelts which were in great demand in Europe. Many trading posts were established in the Upper Mississippi Valley but between 1784 and 1855 at least 27 permanent posts flourished — most of them operated by the British Northwest Company.

One of the earliest of the posts was built at the mouth of the Pine River in 1784. Trading posts were built by the Northwest Company at other sites, however, such as Cass Lake and the east side of Lake Bemidji. The mouth of the Crow Wing River saw fur trading activity as early as 1771, although no permanent establishment developed until 1826.

In 1798 David Thompson, a geographer and surveyor for the Northwest Company, explored the area from Lake Bemidji to Sandy Lake and noted that the Northwest Company also operated a post at Cass Lake. This lake was originally known as "Le Haut Lac de Cedre Rouge" (Upper Red Cedar Lake) and was named by the French because of the many cedar trees which grew on one of the islands.

Thompson also visited the outpost of the Mississippi near Sandy lake. Both the Northwest Company and, later, the American Fur Company maintained posts near the outlet of Sandy Lake to the Mississippi. The Northwest Company post was located a mile south of the mouth of the Sandy Lake River not far from the Mississippi. It was in existence as early as 1763 as a trading depot, although the permanent establishment was built in 1794. The American Fur Company post was built at the mouth of the Sandy River in 1820. Another fur trading post was built in 1791 at the site of the old Indian village on White Oak Point.

Near the west entrance to the Chippewa National Forest is the site of the old Red Lake Oxcart Trail. The old Hudson Bay Company transported furs over this route from the Steamboat River past Cass Lake to the Red River Valley. The 1800's saw the development of many fur trading posts all along the length of the Mississippi River.

When the United States acquired the Louisiana Territory from France in 1803, the British traders were the dominant European influence in the Upper Mississippi Valley. The American Government wished to firmly establish its new jurisdiction over this area, but little was really known about the region, particularly the source of the Mississippi. In 1805 Lt. Zebulon Pike and a small contingent of U.S. Army soldiers was sent up the Mississippi from St. Louis to explore the upper regions of the river, make peace between the Ojibway and Dakota, establish the United States' jurisdiction over the area, and determine a possible site for a military outpost.

An experienced explorer Pike, in early 1805, had scouted the area around the Falls of St. Anthony for a possible location for a fort. The result was Fort Snelling, built around 1820 at the confluence of the Minnesota and Mississippi rivers. It was the major military outpost in the northwest for many years.

The winter of 1805-1806 found Pike forced to halt at the mouth of the Swan River below the present site of Little Falls. There he built a temporary post for the winter. During that same winter, however, he resumed his travels and eventually reached what is now known as Cass Lake. Although Pike contributed a great deal of information about the upper reaches of the Mississippi the search for the ultimate source of the river continued for many years.

Other explorers, not satisfied with Cass Lake as the source of the river, continued the search. General Lewis Cass, for whom both the lake and the county are named, reached the same lake in 1820, but failed to pursue the river to its true source. Giacomo Beltrami, an Italian gentleman traveler, traversed the upper Mississippi area in 1823. He claimed the true source was 10 miles north of Lake Bemidji at Lake Julia. Still, the argument continued. Finally, in the summer of 1832 Henry Schoolcraft determined that Lake Itasca was the true source of the Mississippi. The word "Itasca" was one he coined from the two Latin words Veritas Caput, which translated means "truth head."

While most people today accept Lake Itasca as the source of the Mississippi River, the ultimate sources are really several small streams, lakes, and bogs which drain into Lake Itasca from the south. As late as 1880, however, a Captain Willard Glazier claimed to have discovered the really true source of the river. He modestly named it Lake Glazier. (It is probably the lake now known as Elk Lake.) Fortunately, history and tradition have settled on Lake Itasca as the source of the greatest river in the country. The question was finally put to rest and the next chapter in the history of the Upper Mississippi region was about to begin.

Just as the valuable fur trade had lured the first European travelers to the Upper Mississippi region, another great natural resource, the vast white and red pine forests, brought in a new breed of entrepreneurs. The fur trade had opened up some primitive transportation routes into and throughout portions of the Upper Mississippi Valley. The Red River Oxcart Trail ran along the banks of the river from what is now St. Paul to the village of Crow Wing at the mouth of the Crow Wing River. It then ran westward to the Red River Valley. This trail was in use from 1820 to 1869. Another trail, developed by the U.S. Department of the Interior, began at Crow Wing and stretched northward to Leech Lake, Cass Lake, and Red Lake. These trails, along with the river itself, offered access to a once mysterious corner of Minnesota. Logging operations and sawmills

Wanigan of the Mississippi and Rum River Boom Co. just below Brainerd. 1905. Photo: Courtesy of the Minnesota Historical Society.

Railroad thru virgin forest near Cass Lake, July 1904. Photo: Courtesy of the U.S. Forest Service

sprung up at the lower end of the river at places like St. Anthony Falls, Anoka, and St. Cloud. They quickly moved upstream as the timber stands were depleted and the potential of the Upper Mississippi Valley was realized. Logging operations were occurring in the forests north of Grand Rapids in the 1870's and much earlier in the areas around Brainerd. At first the logs were floated out by river, but the later large scale operations developed after the railroads reached northward into the forest areas.

Brainerd was platted in 1870 and when the railheads from the south and east reached the city in the late 1870's, it was a booming lumber town. It was soon succeeded by Grand Rapids, established in 1877 at the site of major falls and rapids on the river, and then by Bemidji which was not settled until 1894. The railroads reached these latter two towns in the 1890's and the cutting of the forests was accelerated. By 1910 the great virgin forests were gone and the lumber industry began to fade. Though the timber industry has since regained importance in the Upper Mississippi Valley, the economy is now more diversified.

Agricultural use of the cut-over timber lands was only marginally successful in many cases, although it is important locally in some areas. The Mesabi and Cuyuna ranges were developed during the late 1800's and into the 20th century. During much of that period these ranges were the nation's chief source of iron ore. During World War I, the Cuyuna Range also supplied 90 percent of the nation's manganese. Later, the recreation and tourism industries became important factors in the area's economy. But, it was the timber industry that spawned most of the settlements in the valley and transformed it from a wilderness.

Many of the early settlements and activities along the Mississippi were replaced by more modern arrangements through the years. One of the more interesting settlements for many years was the old village of Crow Wing. This area, located at the mouth of the Crow Wing River, was a fur trading site as early as the 1700's and was the site of a permanent trading post from the 1820's to 1848.

A major battle between the Ojibway (Chippewa) and Dakota (Sioux) tribes took place there in 1768. The Chippewa Agency was located nearby and operated during the 1850's and 1860's. The town of Crow Wing was founded about 1840. Old Fort Ripley was established close by in 1849 to guard the northern frontier and to watch over the Winnebago Indian Reservation which was located west of the Mississippi from 1846 to 1855. Crow Wing was an important junction on the Red River Oxcart Trail and a starting point for the Department of Interior trail to the northern reservation areas. It was the site of an early mission in the 1850's and 1860's.

Crow Wing was a bustling town of about 600 people in the 1860's, but when it was bypassed by the railroad the town declined rapidly and was abandoned by 1870. The railroad preferred a river crossing which later became the city of Brainerd. Much later the site of Old Crow Wing became a state park. It is now one of the oldest ghost towns in the state of Minnesota.

Another interesting aspect of the not too distant past was the steamboat travel which plied the river between Aitkin and Grand Rapids well into the 20th century. This mode of transportation was once one of the best ways to travel in a region that had few roads, and almost none that was good. From the 1870's to as late as 1921, a variety of craft cruised the river stopping at numerous landings to pick up passengers or cargo. Eventually, though, even these colorful and functional reminders of an earlier era were replaced by modern roads and railroads.

RIVER BOATS THAT TRAVELED BETWEEN GRAND RAPIDS AND AITKIN

Name	L	BW	D	Dates of Service
Pokagama	100'	24'	2'	1871-1877
Stern Wheeler. (Capt. George Houghton) Destroyed by fire winter of 1877.				
White Swan	70'	16'	3'	1878
Side Wheeler. Built in Brainerd by Alsop & Mahlum, summer & fall trips were impossible so it was dismantled and shipped to the Red River.				
City of Aitkin	120'	22'		1878-1883
In 1879 it only made five trips because of low water. Carried 120 passengers & 150 tons of freight. Sank at its dock Sept. 4, 1883 as falling water caused it to list.				
Fawn	85'	14'	3'	1882-1894
Made trip to Grand Rapids & back in one week, the last two years it was used by Weyerhauser Co. towing logs and breaking log jams. In 1894 it struck snag below Swan River and sank.				
Andy Gibson	140'	32'	2'	1883-1892
Stern Wheeler hauled 150 passengers & 100 tons of freight. It caved in many banks of the river as it was too long for the sharp bends of the river. It was purchased by the Potter Co. in 1891. It was retired in 1892 and its boiler was used in the heating system of the Potter Company.				
George Houghton	115'	21'	14'	1886-1889
Burned at its mooring 20 miles above Aitkin.				
Swan				1894-1898
Burned at the mouth of the Ripple River. Cap. Wm. Hay.				
Walter Taylor	50'	15'		1895-1897
Built by Cluff Brothers & James Tayler. Sank from over-loading at the mouth of the Sandy River.				
Irene				1900-1908
Named in honor of Irene Hodgedon. Burned in 1901, rebuilt and sank in 1908 at Verdon's Landing.				
Remnica	30'			1903
Used by a Finnish settlement.				
Onole	105'	22'		1907-1918
Used as a dredge boat in 1918. Was renamed the Ark and used on the Sandy Lake as a summer resort until 1941.				
Lee				1911-1921
Sank near Gydes mill at the Ripple River.				

"Selected Rivers of Minnesota Recreational Analysis" by Midwest Planning and Research Inc., September 1966.

The Upper Mississippi region was also one of the first areas in the state where measures were taken to preserve some of the remaining natural and historical heritage. In 1891 Itasca State Park, the first state park in Minnesota, was created. Jacob Brower, who had fought for its establishment to preserve the remaining stands of virgin pine in the area and to protect the basin around the source of the Mississippi, became the park's first superintendent.

The famous Douglas Lodge was built in 1905 and the University of Minnesota Forestry and Biological Station, the first of its kind in the country, was established shortly after. Pillsbury State Forest, one of the first in the state, was established west of Brainerd in 1899. A huge Federal reserve, which became Chippewa National Forest, was created in 1902. By the 1930's the authorized area of the national forest had grown to almost a million and a half acres.

Through the years many additional state parks and forests were established along the Mississippi River Valley. The childhood home of Charles Lindbergh, located on the banks of the Mississippi near Little Falls, has been preserved in Charles A. Lindbergh State Park. (The park is actually named after the father who was a Republican congressman.)

Schoolcraft State Park, named after the explorer of the source of the Mississippi, was established in 1959. Included within this park is the site of the Dobson Homestead, a well-known stopping place on the Mississippi in the early 1900's for river travelers and lumberjacks. Relics of the lumbering era and an earlier Indian village have been found at this site. The park is located on the Mississippi between Deer River and Grand Rapids. In addition, many county and city parks and forests have also been created. Conservation of the natural resources of the area has been an important factor in the attractiveness of the region for tourism and recreational use . . . major components of the region's economy.

GEOLOGY AND WATERSHED

The geologic history of the Upper Mississippi River is essentially a legacy of the great Ice Age. Thousands of years ago vast sheets of ice covered most of northern Minnesota. As these huge glaciers retreated to the north they left a landscape of morainic hills, depressions, outwash plains, and ancient lake beds. It was in the aftermath of this glacial activity that the Mississippi had its origins.

The source of the river, Lake Itasca, is located in an area of glacial moraines at an altitude of 1,460 feet above sea level. The course of the river and the geological characteristics of the land are described in a publication of the U.S. Geological Survey entitled **Water Resources of the Mississippi Headwaters Watershed North-Central Minnesota.** This series of maps and accompanying notes describes the watershed of the Upper Mississippi from Lake Itasca to the mouth of the Crow Wing River. The following is a brief description of the geological characteristics of the watershed.

> The origin of the river is in glacial moraine. The river flows through end moraines and rolling till plains, across an extensive outwash plain occupied by large reservoir lakes, and finally across an extensive marshy plain which is the bed of an ancient glacial lake. Glacial deposits in the watershed include till, lenses of sand and gravel in till, outwash deposits, of sand and gravel, and lake deposits of fine sand, silt and clay. Beneath the glacial drift is an uneven surface of Precambrian bedrock. Bedrock consists of igneous intrusives and metamorphosed sedimentary formations.

The characteristics of the river vary greatly depending on the kind of topography and soil through which it flows. In the portion of the river between Lake Itasca and Bemidji, the river flows through large marshy areas interspersed by areas of higher ground. In the marsh areas the river meanders widely. Where the higher ground constricts the channel, the banks are higher and the sandy soil supports a mixed hardwood and conifer forest.

At Bemidji the river enters a region of lakes, flowing through some of them, the largest being Lake Bemidji, Cass Lake, and Lake Winnibigoshish. From the Ottertail Power Company dam just downstream from Bemidji to Brainerd, the fall of the river is only 0.6 feet per mile. (From Lake Itasca to Bemidji the average fall is about 4 feet per mile.). In much of this section of the river there are numerous oxbows that have resulted from changes in the river channel over the years. This is particularly true of the Aitkin County portion of the river. Here, the Mississippi flows through the bed of ancient Lake Aitkin. This lake was formed by glacial meltwaters thousands of years ago and has since all but disappeared, leaving only a flat, swampy plain.

Downstream from Aitkin the river gradually becomes straighter. From Brainerd to near the Twin Cities the river is confined more narrowly between high sand banks that in some places reach 60 feet or more above the shoreline. In the vicinity of Camp Ripley the river channel is broken by numerous islands. Wooded islands are common throughout the remainder of the river channel down to the Twin Cities.

The greatest fall of any section of the river is between Little Falls and Royalton, about 6.5 feet per mile.

At one time the river was interrupted by several falls and rapids. Most of these have since been covered by dams or reservoirs, however. Pokegama Falls, once located just upstream from the town of Grand Rapids, had a drop of about 20 feet making it the second largest falls on the river after St. Anthony Falls. A dam now impounds a large reservoir behind the site of the falls. Dams replaced several other falls and rapids that once made the Upper Mississippi a formidable stream for river travelers. There were the Grand Rapids, located at the town of the same name just below Pokegama Falls. The Little Falls, located near the town of the same name, was also a respectable stretch of rapids that dropped 20 feet in a quarter mile. Ten miles downstream from Little Falls were the Knife Rapids (also called Pike Rapids). These rapids extended for three quarters of a mile along the river. They have now been obscured by the Blanchard Dam, one of the largest dams on the Upper Mississippi.

The watershed of the Mississippi Headwaters Basin is a 7,068 square mile area in north-central Minnesota. It includes all lands drained by the Mississippi River and its tributaries above the mouth of the Crow Wing River. The main stem of the river in this area is 376 miles long and it drops a total of 310 feet in elevation, or less than one foot per mile on an average.

The water resources of the area are abundant. About eight percent of the surface of the area is occupied by water in the lakes and streams. The glacial drift and bedrock are sources for the ground water supply.

One way to illustrate the water resources of the area is to look at the hydrologic equation for the watershed, a mathematical procedure which accounts for all the water in a particular area. The equation simply states that all water entering an area during a given period of time must either go into storage, be consumed, be exported, or flow out either on the surface or underground, during that same period. In order to compare these various amounts, all water quantity units are converted to average inches per year. The hydrologic equation for the Mississippi Headwaters Watershed is as follows:

Hydrologic Equation

Total annual precipitation in the Mississippi Headwaters Basin (Lake Itasca to the mouth of the Crow Wing River) equals 25.33 inches. A total of 5.3 inches is lost in runoff. 0.01 inches is lost to underflow. Change in storage in the watershed is 0.0 (net change). A total of 19.98 inches is lost to evapotranspiration. Final equation: 25.33 equals 5.3 + 0.01 + 0.0 + 19.98.

Sometimes the balance of nature can shift from one extreme to the other temporarily. In the 1930's, for example, the Upper Mississippi River watershed experienced a severe drought. In 1950, however, large portions of Aitkin County were inundated. The flood in May of that year was the worst on record and of unusual duration. In many places the floodwaters extended for miles on either side of the Mississippi and its tributaries. This flood was caused by a combination of factors, including high moisture content of the soil, very heavy snow cover, a delayed snowmelt, and heavy precipitation.

Since the natural streamflow is so variable, storage of the high flow is necessary to provide a steady supply. In the late 1800's several headwaters reservoirs were constructed by the U.S. Army Corps of Engineers to store high spring runoff for later release during low flow periods and to improve navigation on the heavily used portion of the Mississippi between St. Paul and Lake Pepin. Since that time, the river below Minneapolis has been channelized for barge traffic and the emphasis of the headwaters reservoirs has shifted to flood control and water utilization. Power plants also regulate the flow of the Mississippi and some of its tributaries. Reduction of the peak flows and increase of the low flows is also affected somewhat by the large groundwater reservoirs, many lakes, and swamps. The use of the artificial reservoirs is limited by the evaporation losses from the lake surfaces, lack of greater storage capacity, and economic considerations. The Aitkin diversion channel was built to divert medium and high flows from a large portion of the river, but the channel has little effect on extreme floods.

WATER USE

Water is available from two main sources in the watershed — the ground water resource and the surface water resource.

The largest amount of water available within the headwaters region is contained in the groundwater reservoir. Constant ground water discharge is important in maintaining the lake levels and the base flow of streams. The ground water can also provide up to 500 gallons per minute for wells in many places in the area.

Glacial outwash deposits that underlie present water courses are the best source of water supply. Buried glacial aquifers and Precambrian sedimentary bedrock are also good sources of ground water.

The hardness of the groundwater in the area ranges from moderately hard to very hard, but the iron and manganese can be removed if necessary to provide municipal and industrial supplies. The quality of the ground water is suitable for irrigation purposes.

The surface waters of the Mississippi, its tributaries, reservoirs, and lakes, provide an abundant source of high quality water for most municipal, industrial, and agricultural uses. The variations in stream-flow are not large because of the storage in the natural lakes, swamps, and glacial deposits as well as in the man-made reservoirs and dams. Evaporation is a major factor in the loss of water resources from the watershed.

Water is used for a variety of purposes in the watershed. Industrial uses, particularly iron mining, are by far the greatest users of water in the watershed. Industry uses about 110 million gallons per day from the groundwater resource and about 58 million gallons from the surface water. Residential uses account for just over 3 million gallons a day from the groundwater resource (none from the surface water). Commercial, agricultural, municipal and institutional, and other uses each account for less than 1 million gallons a day from the ground water resource, although other uses — such as conservation and recreation — account for 153 million gallons a day from the surface water resources. These uses are nonconsumptive and economically beneficial to the area. Tourism and resort areas associated with the water resources of the area are major business enterprises in the area. In addition to the recreational benefits, the waters also provide excellent habitat for fish and wildlife resources of the area.

VEGETATION

The valuable and varied vegetation along the Upper Mississippi was, and still is, a great asset. Besides providing excellent cover and habitat for a great variety of wildlife, it is an important factor in the control of runoff and erosion. The great pineries that once existed in areas adjacent to the Upper Mississippi Valley attracted industry and settlement. The existing forests and marshes provide for many recreational uses such as camping, hiking, and hunting as well as a pleasant backdrop for the river traveler.

Original Vegetation

A detailed map of the original vegetation of Minnesota was compiled from the U.S. General Land Office Survey notes by Francis J. Marschner of the U.S. Department of Agriculture in 1930. The great variety of vegetation types along and adjacent to the Upper Mississippi are readily identified from this map.

Lake Itasca to Lake Bemidji

This portion of the river was originally forested with white pine, Norway pine, jack pine, and river bottom forest (consisting of elm, ash, cottonwood, boxelder, oak, basswood, soft maple, willow, aspen, hackberry, etc. with occasional pines and arbor vitae). In addition, large areas consisted of conifer bogs and swamps (mostly spruce, tamarack, cedar, and balsam) and wet prairie, marshes, and sloughs (mostly marsh grasses, flags, reeds, rushes, wild rice, with willow and alder brush in places).

Lake Bemidji to Cass Lake

This portion of the river valley was forested primarily with river bottom forest and jack pine barrens and openings (mostly jack pine with oak, aspen, hazel brush and occasionally Norway pine).

Cass Lake to Winnibigoshish

The forested area in this stretch consisted mostly of jack pine barrens and openings. Immediately adjacent to the river were wet prairies, marshes and sloughs.

Lake Winnibigoshish to Grand Rapids

Much of this stretch of the river meandered through huge areas of wet prairies, marshes, and sloughs. On some of the higher lands the forests consisted of jack pine barrens and openings and aspen-birch types. The latter consisted of aspen and birch areas some of which might eventually change to coniferous species. White and Norway pines, balsam, fir, spruce, and arbor vitae were associated species.

Grand Rapids to Jacobson

This area was almost all forested. River bottom forest predominated along much of the area. Also associated with the river valley were aspen-birch types and, in the area from around Grand Rapids to Blackberry, white and Norway pines.

Jacobson to Aitkin

The forests in this stretch were made up of river bottom types, big woods types (oak, elm, basswood, ash, maple, hornbeam, aspen, birch, wild cherry, etc. with some white pine), aspen-birch (hardwoods) types (includes ash, elm, maple, basswood, oak, etc. as associated species and some white and Norway pines.) (These areas were not being succeeded by coniferous species.) There were also some areas of conifer bogs and swamps.

Aitkin to the Mouth of the Crow Wing River

The forests in this area were mostly jack pine barrens and openings and river bottom types. There were also some areas of wet prairie marsh, and sloughs and some conifer bogs and swamps, especially in the area near Aitkin.

Mouth of the Crow Wing River to Southern Boundary of Morrison County

The forests of this stretch of the river were mostly oak openings and barrens (consisting of scattered trees and groves of oak, primarily bur oak, of scrubby form with some brush and thickets and occasionally with pines.) There were also some areas of river bottom type forest. There were extensive areas of dry prairie and some smaller areas of wet prairie, marsh, and slough.

Breaking a log jam in the river at Little Falls. Ca. 1890. Photo: Courtesy of the Minnesota Historical Society.

Present Vegetation

Much of the vegetation immediately adjacent to the Mississippi River in the study area remains in a similar state to that which the first European explorers encountered. The major exception is that the solid stands of white, Norway, and jack pines that once existed near such areas as Lake Itasca, Bemidji, Grand Rapids, and Brainerd have been mostly removed. These areas were cut during the late 1800's and early 1900's at the peak of the lumbering activity in the Upper Mississippi Valley. Some of these lands have seen some regrowth of the original pine forests, but others have grown back to with various hardwood species or a mixture of hardwoods and scattered pines.

Other changes from the original vegetation have, of course, occurred in those areas around the cities, towns, and outlying residential developments and in the agricultural areas.

There are, however, large portions of the immediate river valley that have changed little in terms of the characteristic vegetation. Much of the large marsh and swamp areas that were unsuitable for agriculture or development and had little valuable timber have remained virtually untouched through the years, other than the changes resulting from flowages.

FISH AND WILDLIFE

The Upper Mississippi River Valley has long been a prime habitat area for a wide variety of fish and wildlife species. The abundance of game made this area attractive to the early Indian tribes that established villages along the river and some of the adjacent lakes. The fur bearing animals in the region were later exploited by the European fur traders. Early explorers found species along the upper river that since have been driven out or are virtually extinct in Minnesota. The buffalo (American bison) and elk, for example, were noted as being quite common along the river by early explorers such as Pike.

Today, the Upper Mississippi is still a prime fish and wildlife resource area in Minnesota. The river and its adjacent forests and marshes provide cover, nesting sites, and food for many species. Some of these species also support recreational hunting and fishing which are associated with the important local tourist industry.

Some of the species found in the coniferous forest areas include white tailed deer, black bear, bobcat, fisher, red squirrel, eastern chipmunk, varying hare, spruce grouse, great grey owl, beaver, mink, porcupine, raccoon, coyote, otter, and many species of songbirds. Moose and timber wolf are uncommon in the river valley.

In the large marsh areas a great variety of waterfowl can be found. Many species of ducks and grouse including mallards, woodducks, blue winged teal, and golden eyes nest in these marshes along with herons and bitterns. Otter, mink, muskrat and beaver are also found there. Some of these marsh areas, particularly in the Chippewa National Forest, are prime habitat for the American bald eagle. In fact, more bald eagles are successfully nesting in the Chippewa than in any other location in the lower 48 states. For several years wildlife biologists have been keeping close count of the nesting habits and success of the bald eagle in the forest. The trends are encouraging. The number of active eagle nests, for example, have increased from 20 in 1963 to 77 in 1980. The eagles are apparently attracted to the area by its large shallow lakes and abundance of old growth pines (about 80 percent of the nests are in white or red pine trees). The hatching success of the eagles is also increasing. In 1979, 95 eagles were produced from nests in the Chippewa National Forest. Though the total number of eagles in the country is not increasing much, it appears that there is some reason to be optimistic about the gradual improvement of the breeding success in the Chippewa.

Profile of a Bald Eagle
(Courtesy of Minn. Dept. of Natural Resources)

Another endangered bird of prey, the osprey, also finds a relatively secure home in the Chippewa National Forest. In 1979, there were 122 active osprey nests in the forest. Fifty-nine of these had successful hatches. This was a marked improvement from the hatch of 1968, but nationally the number of osprey is declining. The Chippewa contains a significant portion of the total osprey population of the United States.

The deciduous portion of the river valley is the home for such species as grey squirrel, fox squirrel, raccoon, rabbit, black bear, whitetail deer, skunk, woodchuck, and badger as well as a large variety of songbirds.

Portions of the Upper Mississippi are good sport fishing areas. Most common species include northern pike, walleye, smallmouth bass, crappies, sunfish, and redhorse. An occasional muskellunge is caught. The lakes are particularly good for walleye and northern pike.

RECREATION AND HISTORIC SITES

Introduction

The Upper Mississippi is an excellent resource for a variety of recreational pursuits. Several national, state, and county forests offer camping, canoeing, snowmobiling, hunting, picnicking, backpacking, and other recreational opportunities. State parks along the river feature historical and cultural themes, as well as recreational activities and examples of native forest habitats. Fishing is popular along some sections of the river, although some of the large reservoir lakes through which the river flows are usually preferred. Recreational boating is common on these lakes as well as the larger reservoirs above dams.

Canoeing is perhaps the single most popular recreational activity along the entire length of the study area. Many campsites, rest areas, and access points have been developed by local, state, and federal agencies. Many sections of the river are adequately served by existing facilities. As noted in the 1977 Bureau of Outdoor Recreation (BOR) study report on the proposal to designate the Upper Mississippi as a National Wild and Scenic River (p. 21, 1977 BOR Report), the existing recreation facilities provide adequate access and rest-camping opportunities along most sections of the river. There are some sections, however, that lack the access and camping facilities necessary to make the Upper Mississippi a complete and coordinated recreational system for river users. The BOR report did recommend the purchase and/or development of several sites for "float camps," accesses, portages, and historical sites.

Our study has reached much the same conclusions regarding the general adequacy of facilities along much of the river and the need for a small number of new recreational facilities to round out a more continuous and complete system. The recreation and historic sites section of the plan describes those recreational and historical sites that now exist along the river and several new sites that should be developed to fill in the gaps. It is a serial listing of all recreation and historic sites from Lake Itasca to southern Morrison County with references to river mile marks and map numbers for easy identification. A brief description of each site is also provided.

Some of these sites could best be acquired and developed by the state as a part of its existing recreational development programs. Others may more properly be administered at the local level.

Some of the proposed sites are among those recommended as part of the Great River Road development. The Great River Road project and its possible implications for the Mississippi Headwaters Board management proposal are discussed in a separate section.

In addition to the existing and proposed sites listed in the following section, there are opportunities for future development of new sites if needed. Some county authorities noted several areas on existing county-administered lands that might make good campsites or other recreational sites. The DNR officials also indicated some possible future sites that they might want to develop. These sites should be considered in the future if recreational use warrants such development.

Cooperative agreements with other agencies involved with recreational management should be pursued. There are

Young man and women relax while fishing at Lake Itasca, 1902. Photo: Courtesy of the Minnesota Historical Society.

some good opportunities for cooperative projects, particularly with the DNR and the Bureau of Land Management (islands), that might be initiated by next spring.

In meetings with the Department of Natural Resources and the U.S. Forest Service staff, the idea of a recreational use study was discussed. They felt such a study would be very helpful in determining just how much and what kinds of recreational use is occurring on the Mississippi River. They indicated that they may be able to offer some assistance. It might be possible to interest recreation research people to do such a study if funding, possibly federal or private foundation funds, could be obtained. It is recommended that this idea be pursued to determine whether such a study and the necessary funding might be obtained.

See the finance section for further details regarding funding of recreational site development.

Camping out on the Mississippi.

Courtesy of the Minnesota Historical Society.

Campground scene at Lake Itasca. Photo: Courtesy of the Minnesota Dept. of Natural Resources.

Recreation and Historic Sites: Existing and Proposed Facilities

1 **Itasca State Park** (Mile 0, Map #1)
This state park was established in 1891 (one of the earliest state parks in the country) to protect and preserve the area around Lake Itasca, the source of the Mississippi River. Here the great river starts its 2,552 mile journey to the Gulf of Mexico. The park offers many recreational opportunities including camping, hiking, canoeing, fishing, swimming, historical sites, nature interpretation, and others. It has been one of the most popular state parks in Minnesota for many years. The interpretive center, located near the outlet of the river from the lake, offers an excellent slide program describing the headwaters portion of the river north of Lake Itasca.

The Great River Road Program development guide indicates that some suggested improvements to the interpretive center, landscaping, signing, and other facilities may be completed in cooperation with the Minnesota Department of Natural Resources.

2 **Wanagan Landing** (Mile 6.2, Map #1)
Wanagan Landing is a campground and access maintained and operated by the Minnesota Department of Natural Resources. (Much of the river between Lake Itasca and Bemidji is located within the Mississippi Headwaters State Forest.) Named after the supply boats used in the early logging days, this landing offers picnic tables, fire rings, pit toilets, and vehicle access. It is a popular put-in point for canoe trips on the upper river.

3 **Vekin's Dam** (Mile 9, Map #2)
This dam is an old sluiceway dating from the late 1800's which was used to guide logs downriver. The dam must be portaged on the left side. A 100 foot portage trail is provided. This portage is located on **private** property.

4 **Coffee Pot Landing** (Mile 18, Map #3, 4)
This is a Department of Natural Resources facility similar to Wanagan Landing. It also includes a flowing spring.

5 **Stumphges Rapids** (Mile 25, Map #5)
The Minnesota Department of Natural Resources has recently developed a primitive campsite and access at this site. Though minimal facilities are available, this site provides a needed midway stop between the Coffee Pot and Bear Den landings.

6 **Bear Den Landing** (Mile 35, Map #6)
Bear Den Landing, a Department of Natural Resources site, has facilities similar to Wanagan Landing. As in the case of the previous landings, overnight camping is allowed.

7 **DNR River Access Only Campsite** (Mile 36, Map #7)
This recently developed Department of Natural Resources site provides for primitive camping. Access is by water only.

8 **Pine Point Landing** (Mile 39, Map #7)
This state forest site has the same facilities as the previous landings, but also includes a water pump.

9 **Iron Bridge Campsite** (Mile 47.5, Map #8)
This Department of Natural Resources site has the same facilities as the Pine Point Landing except that there is no vehicle access provided (access is by canoe only).

10 **Proposed Iron Bridge Access** (Mile 48, Map #8)
This site is presently privately owned. It is an area which is proposed as part of the Great River Road system. The site as envisioned by the Minnesota Department of Transportation planners would include a canoe landing, overlooks, picnic area, parking, toilets, telephone, and a major realignment of the road and bridge crossing. In terms of priority, the major need at this location is for access. It is being used for this purpose at this time, and the lack of adequate parking at the bridge creates a dangerous situation for both river and highway users. Administration of this site should be either state, as part of its canoe route program, or by Beltrami County. Because there is an existing Department of Natural Resources campsite located just upstream we do not recommend development of overnight camping at the Iron Bridge Site. It is recommended that only a canoe access be developed at the Iron Bridge site and that the alternative site proposed by the Great River Road study, the Grosbeak Rest Area, be developed instead.
If a willing seller cannot be found for development of this access, it is recommended that a carry-in canoe access be developed as a component of the proposed Grosbeak Rest Area.

11 **Grosbeak Rest Area** (Mile 51.8, Map #8)
This proposed site is located about 1,500 feet south of Beltrami CSAH #7. The proposed development of this site includes a picnic area, trails and interpretive signing, vault toilets, and parking. It would also provide good views of the river.

This site may be planned as a cooperative project between Beltrami County and the Great River Road project.

12 **Bemidji Area Recreation Sites** (Miles 61-65, Maps #10, 11)
There are several public access sites located near Bemidji on lakes Bemidji and Irving. In addition, Lake Bemidji State Park is located on the north end of Lake Bemidji and could be available to river users. This state park offers camping, picnicking, swimming, boating and cross-country skiing in winter.

13 **Proposed Access of Beltrami CSAH #12** (Mile 65.5, Map #11)
It is recommended that an access be acquired and developed at the Beltrami CSAH #12 crossing of the Mississippi River as it leaves Lake Bemidji. This should be a small public access providing a safe pull-off and parking area for about five vehicles. No additional facilities are required. It is recommended that this access be acquired and developed with funds provided through the state Canoe and Boating Route Program.

The Department of Natural Resources has initiated acquisition procedures for the purchase of this site.

14 **Portage at Ottertail Power Company Dam** (Mile 71.2, Map #12)
There is an existing portage around the dam. Care should be taken that adequate warning is provided. Hazardous warning and portage signs are available through the state Canoe and Boating Route Program.

15 **Island Point Landing** (Mile 73.5, Map #13)
This Department of Natural Resources landing includes camping and access to the river.

16. **Wolf Lake Public Access** (Mile 78, Map #14)
A public access administered by the Enforcement Division of the Minnesota Department of Natural Resources is located on the southwest side of Wolf Lake. The river flows through the north end of Wolf Lake.

17. **Accesses Near West End of Cass Lake** (Miles 80-85, Map #15)
Several primitive accesses are located on the river and on Allens Bay of Cass Lake.

18. **Star Island Campsite** (Mile 86, between Maps #15, 16)
Star Island is located in Cass Lake opposite the western entry point of the Mississippi River into the lake. The U.S. Forest Service, Chippewa National Forest, maintains a campground on the south side of the island. This campground is available to boaters and canoeists traveling through Cass Lake.

19. **Norway Beach and Wanaki Campgrounds** (Miles 87, between Map #15, 16)
On the south end of Cass Lake the U.S. Forest Service maintains two campgrounds. Public access to Cass Lake is also provided.

20. **Knutson Dam Recreation Area** (Mile 89.5, Map #16)
Knutson Dam is located at the east end of Cass Lake at the outlet of the river. This site includes facilities for camping, picnicking, boat launching, and sanitary disposal. A portage is provided around the dam.

21. **Third River Bridge Public Access** (Mile 93, Map #17)
This U.S. Forest Service public access is located at a forest road bridge crossing.

22. **Smiling Joe's Landing** (Mile 97, Map #17)
This Forest Service facility provides camping and access to the river.

23. **Reese Landing** (Mile 100, Map #18)
This public access is located on the south side of the river as it enters Lake Winnibigoshish.

24. **West Winnie Campground** (Mile 101, Map #18)
This U.S. Forest Service campground is located on the west side of the lake about a mile north of the entry point of the river. It includes facilities for boat launching, picnicking, camping, drinking water and a scenic vista of the lake.

25. **Lake Winnibigoshish Recreation Sites** (Miles 100-114, between Maps #18, 19)
Forest Service maintains many recreation sites providing access camping, picnicking, swimming, boating, nature trails, and historical sites on or near lake Winnibigoshish.

26. **Plug Hat Point Campground** (Mile 113, between Maps #18, 19)
This U.S. Forest Service site is located on the east side of the lake near the point at which the river leaves the lake. Its facilities include access, drinking water, an historical site, and a scenic vista of the lake, as well as camping.

27. **Lake Winnibigoshish Recreation Area** (Mile 114, Map #19)
Located off of Itasca County Road #9 adjacent to the Winnie Dam, this site is administered by the U.S. Army Corps of Engineers. Facilities and services include camping, a day use area, playground, drinking water, rest rooms, a sanitary dumping station, picnic tables, picnic shelter, fireplaces, firewood, and barbecue units. A portage around the dam is also provided.

28. **Cut Foot Sioux Visitor Information Center**
This center, operated by the U.S. Forest Service, is located about 7 miles north of Winnie Dam.

29. **Little Winnie Lake Public Access** (Mile 114.5, Map #19)
This public access is located at the northwest end of Little Winnibigoshish Lake.

30. **Crazy James Point** (Mile 118.8, Map #20)
This Department of Natural Resources site provides overnight camping facilities and water.

31. **Public Access** (Mile 130.5, Map #23)
This is a Department of Natural Resources forestry access off of Itasca County Highway #18.

32. **Gamblers Point Campground** (Mile 132.5, Map #23)
This site is administered by the Minnesota Department of Natural Resources. It provides for overnight camping, picnicking and water.

33. **White Oak Lake Public Access** (approx. Mile 139, Map #25)
This public access is located on White Oak Lake through which a channel of the river flows. The access is on the north side of the lake near the town of Deer River. It is administered by the Minnesota Department of Natural Resources.

34. **Proposed White Oak Point Historic Site and Rest Area** (Mile 139.2, Map #25)
White Oak Point is one of the most important archaeological and historical sites in Minnesota. It is the site of several early habitation areas dating from about 6000 B.C. and is also the site of an early trading post.
This site is currently privately owned. It is recommended that Itasca County acquire this site, possibly by means of a land exchange. Assistance in interpretation and development of site may be available from the Minnesota Historical Society, Itasca County Historical Society, and the Department of Natural Resources.

This site was also recommended for acquisition and development by the 1977 Bureau of Outdoor Recreation study.

35. **Little White Oak Lake Public Access** (approx. Mile 142, Map #26)
This public access is administered by Itasca County. It is located on the east side of Little White Oak lake off Itasca County Road #11. This lake flows directly into the river.

36. **Schoolcraft State Recreation Area** (Miles 145-146, Map #27)
This site is administered by the Division of Parks and Recreation, Minnesota Department of Natural Resources. It is named after Henry Schoolcraft, the explorer who discovered the source of the Mississippi River. It is also the site of the Dobson Homestead, a favorite stopping place on the river for early travelers and lumberjacks. The 133 acre park contains some excellent stands of virgin red pine. The park provides for a variety of recreational activities including camping, picnicking, hiking, swimming, boat launching, canoeing, fishing, and cross-country

skiing. Also provided are a nature trail, toilet facilities, and water.

37 **Minnesota Power and Light Company Public Access** (Mile 155.5; Map #29)
This public access is located on the north side of Blackwater Lake through which the Mississippi River flows. It is located off state Highway #2 near the town of Cohasset and the Clay Boswell Power Plant.

38 **Public Access** (Mile 156.5, Map #29)
This public access is located on the south side of Blackwater Lake near the mouth of Jay Gould Lake.

39 **Pokegama Lake Recreation Area** (Mile 160, Map #30)
This 10 acre U.S. Army Corps of Engineers administered site is located at the Pokegama Falls Dam off U.S. Highway #2. Pokegama Falls was once the second largest waterfall on the Mississippi River falling 15 feet over a quartz outcrop. Facilities and services include camping, a boat launch, day use area, playground, interpretive trails, drinking water, rest rooms, a sanitary dump station, picnic tables, fireplaces, firewood, barbecue units, and a public telephone. A portage is provided around the dam. An old log sluice from the lumbering days still remains.

40 **Blandin Paper Company Campground** (Mile 161.2; Map #31)
This site, located on the south side of the flowage behind the Blandin Paper Company dam, provides overnight camping, access, and water. It is owned and maintained by the Blandin Paper Company.

41 **Minnesota Forest History Center** (Mile 161.8; Map #31)
This historical and interpretive center is administered by the Minnesota Historical Society. It is located on the shore of Paper Mill Reservoir through which the Mississippi River flows. It is a multi-million dollar project designed to interpret the history and development of one of Minnesota's most important industries. A 1910 lumber camp has been reconstructed with great attention to detail. Other attractions include a forest ranger's cabin and fire tower. When completed, the center will offer tours, live demonstrations, trail walks, and films and exhibits in a large interpretive building.

The Forest History Center is open daily to the public from May through October.

43 **Blandin Dam Area** (Mile 163.3, Map #31)
A portage is provided around the Blandin Paper Company dam. This dam is located at the site of the "Grand Rapids", where the river once dropped 9 feet within 80 yards.

44 **Riverside Park** (Mile 164.3, Map #31)
This city park provides rest facilities and water as well as access to the river below the Blandin Dam.

45 **Highway Wayside Rest** (Mile 166.2, Map 32)
This site provides rest facilities and access to the river off U.S. Highway #2.

46 **DNR Public Access** (Mile 179.5, Map #35)
This public access, located off Itasca County Road #3, is administered by the Minnesota Department of Natural Resources.

47 **DNR Primitive Campsite** (Mile 181, Map #35)
Access to this recently developed primitive canoe campsite is by water only. Overnight camping available.

48 **DNR Public Access** (Mile 182; Map #35)
This public access is located off Itasca County Road #72. It is administered by the Minnesota Department of Natural Resources.

49 **DNR Public Access** (Mile 197; Map #37)
This site is administered by the Minnesota Department of Natural Resources. It is not marked, but is accessible off CSAH #3 in Itasca County.

50 **Jacobson Boat Access and Campground** (Miles 201-205; Map #38)
This recreation area is administered by the Aitkin County Parks Commission. It is located at the sites of the old Swan River Logging Camp and the Swan River Steamboat Landing. Overnight camping, picnicking, boat and canoe access, and water are available. A snowmobile trail is also provided.

51 **Jacobson Wayside** (Mile 205.5; Map #38)
This wayside park is also administered by Aitkin County. It has rest facilities and a river access, but does not provide for overnight camping.

52 **DNR Primitive Campsite** (Mile 215.5, Map #40)
Access to this recently developed primitive canoe campsite is by water only. Overnight camping is available.

53 **DNR Primitive Campsite** (Mile 221.5; Map #41)
Access to this recently developed primitive canoe campsite is by water only. Overnight camping is available.

54 **Potential DNR Public Access** (Mile 229; Map #42)
This existing unofficial access is on **private** land. It is a potential site for a public access.

55 **Aitkin County Access** (Mile 230.5, Map #42)
This is a county developed access on privately owned land located off state highway #65.

56 **DNR Primitive Campsite** (Mile 235.2; Map #43)
This state owned land offers the opportunity for potential development of a primitive, water access only campsite. Such a site could be developed using funds from the state Canoe and Boating Route program.

57 **Fur Trade Historic Site and U.S. Army Corps of Engineers Sandy Lake Recreation Area** (Mile 238; Map #44)
The 120 acre Sandy Lake Recreation Area is located a short distance upstream from the junction of the Sandy and Mississippi rivers off state highway #65 on the shores of Big Sandy Lake. An old lock, the only one in the Upper Mississippi reservoir system, still remains. The old lock house has been remodeled and is now used as an interpretive center.

The historic Savanna portage connected Big Sandy Lake and the Mississippi River with the St. Louis River during the fur trade era of the 18th and 19th centuries. Early fur trade posts and the site of the Sandy Lake Steamboat Landing were once located near the mouth of the Sandy River. The American Fur Company built a fur trade post near the mouth of the Sandy River in 1820. It may be possible to further interpret this important historic site which was also recommended for protection in the 1977 Bureau of Outdoor Recreation report.

The facilities and services at the Corps of Engineers site include camping, a boat launch, playground, interpretive displays, drinking water, a shower building, restrooms, a sanitary dumping station, picnic tables, fireplaces, firewood, barbecue units, and a public telephone.

58. **Palisade "Berglund Park" River Camp Area** (Mile 257, Map #47)
This park is administered by the Aitkin County Parks Commission. It is located at the town of Palisade. Facilities include a picnic shelter, cement boat ramp, toilets, and water. Overnight camping and access are provided. Some improvements are presently being constructed in conjunction with the Great River Road program.

59. **Proposed DNR Campsite** (Mile 264.8, Map #48)
The DNR has proposed the development of a primitive water access only campsite on state-owned land at the confluence of the Willow and Mississippi rivers. This site would be developed as a part of the state Canoe and Boating program.

60. **Aitkin County Public Access** (Mile 269.4, Map #49)
This access is located off U.S. Highway #169. Some upgrading may be desirable for this site.

61. **Proposed DNR Primitive Campsite** (Mile 277.4, Map #51)
The DNR has proposed the development of a primitive water access only campsite at the confluence of the Rice and Mississippi rivers. This site would be developed as a part of the state Canoe and Boating Route program.

62. **Proposed Diversion Channel Interpretive Overlook** (Mile 279.3, Map #51)
This interpretive site would be located adjacent to CSAH #21 at the upstream end of the diversion channel. This site provides good views of the river as well as access for fishing. Interpretation of the diversion channel and its purpose will be a major part of the facility. Picnicking, parking, and interpretive signing would be included.

This proposed site would be developed on a cooperative basis between Aitkin County and the Great River Road project.

63. **Public Access** (Mile 281.3, Map #51)
This access is maintained by Aitkin County.

64. **Aitkin River Camp Area** (Mile 288, Map #52)
This park is located at the city of Aitkin. It is administered by the Aitkin County Parks Commission. This park provides electric hook ups, a cement boat launch ramp, water, overnight camping, and picnicking facilities.

65. **DNR Primitive Campsite** (Mile 310, Map #55)
Access to the "Lone Pine Creek" primitive canoe campsite is by water only. The site has been developed on state land. Overnight camping is available.

66. **Proposed DNR Public Access** (Mile 314.3, Map #56)
This proposed DNR public access would be located off of county Highway #6. It would be developed as part of the state Canoe and Boating Route program.

67. **Harvey Drake Landing** (Mile 319.8, Map #58)
This site is located off county road #11 about one mile upstream from the confluence of the Pine and Mississippi rivers on the Pine River. It is administered by the Department of Natural Resources. Public access and picnic facilities are provided.

It is located near the site of the earliest permanent fur trade post on the Upper Mississippi at the mouth of the Pine River. This post was established in 1784. An Indian village was reported at this site in 1805.

It may be possible to develop an interpretive historical marker at this landing describing the fur trade era in cooperation with the Minnesota Department of Natural Resources.

68. **Proposed DNR Campsite** (Mile 324, Map #58)
This proposed DNR site would be located on county land. Access would be by river only and overnight camping would be provided. It would be developed as part of the state Canoe and Boating Route program.

69. **Black Bear Lake Public Access** (Mile 326.3, Map #59)
This access is located at the outlet of Black Bear Lake to the river. It is administered by the Division of Enforcement, Minnesota Department of Natural Resources.

70. **Half Moon Access and Campsite** (Mile 327.5, Map #59)
This DNR site includes access to the river, picnicking, and overnight camping.

71. **Riverton Public Access** (Mile 331.5, Map #60)
This access is administered by the City of Riverton.

72. **Possible DNR Public Access** (Mile 336; Map #62)
This public access point could be developed on existing state land.

73. **Possible DNR Primitive Campsite** (Mile 337.6; Map #62)
The DNR has proposed a primitive water access only campsite on county-owned land near the French Rapids. This site would allow overnight camping.

74. **French Rapids County Park** (Mile 338, Map #63)
The status of this county-owned land is uncertain due to proposed airport expansion.

75. **Lum Park** (Mile 340, Map #63)
This municipal park is located on Rice Lake which is an arm of the reservoir backed up by the Brainerd Dam. It is administered by the city of Brainerd. Access, rest facilities, and water are available.

76. **Brainerd Dam Portage** (Mile 340.5, Map #63)
A portage is available around the dam at Brainerd.

77. **Public Access** (Mile 341, Map #63)

78. **Crow Wing State Park** (Mile 351.5-355.5)
This state park is administered by the Division of Parks and Recreation, Minnesota Department of Natural Resources. Facilities include overnight camping in the main campground, a wilderness campground for canoeists, an historical interpretive center, boat ramp access, water, toilets, picnic grounds, trailer sanitation station, amphitheatre for outdoor education programs, and trails for hiking, snowmobiling, and cross country skiing. This is the site of the old town of Crow Wing, an early trading post and an important depot on the old Red River Ox Cart Trail.

79. **Fort Ripley Historical Site** (Mile 363.3, Map 69)
An existing historical plaque located off Highway #371 near the mouth of the Nokasippi River describes this important U.S. Army military outpost of the 1800's.

80. **Proposed DNR Primitive Campsite** (approx. Mile 368, Map #71)

This proposed DNR primitive campsite would provide for overnight canoe camping. Access would be by water only.

81 **Belle Prairie County Park** (Mile 375.5, Map #73)
This recently acquired county land may provide for access and rest facilities in the future.

82 **North End Park Rest Area and Access** (Mile 379.8, Map #74)
This park is administered by the City of Little Falls.

83 **Little Falls Dam Portage** (Mile 380.6, Map #74)
There is a developed portage around the Little Falls Dam on the left or east side of the river.

84 **Public Access** (Mile 380.8, Map #74)
This public access is administered by the City of Little Falls. It is located on the east side of the river below the dam.

85 **Charles A. Lindbergh State Park** (Miles 382-383, Map #74-75)
This park is named after the father of the famous aviator, a Republican Congressman from Minnesota from 1907 to 1917. It preserves the boyhood home of Charles Jr. who made the famous solo trans-Atlantic flight in 1927. The Lindbergh home along with many family momentos are administered by the Minnesota Historical Society. There is also an interpretive center and museum. Camping is available as well as water, a trailer sanitation station, picnic area, hiking trails, and toilets.
The camping facilities are scheduled to be upgraded and an isolated canoe campsite is proposed for the area near Pike Creek.

86 **Minnesota Power & Light Company Public Access** (Mile 389.5, Map #77)
Located about one-half mile above the Blanchard Dam, this access will probably be upgraded.

87 **Blanchard Dam Portage** (Mile 390, Map #77)
Negotiations are proceeding to provide for a canoe portage around the west end of the Blanchard Dam.

88 **McDougall Homestead Historic Site and Heron Rookery** (Mile 392, Map #77, 78)
This site is owned by The Nature Conservancy. It preserves an old historic homestead and a large Great Blue Heron rookery.

GREAT RIVER ROAD PROGRAM

A separate section of this plan is devoted to the Great River Road project because it offers the county members of the Mississippi Headwaters Board an opportunity to purchase and develop unique river-oriented recreational areas, within their jurisdictions.

Although not all of the eight member counties are participating in the state program at this time, it does provide one possible means for financing some desired recreational land purchases and developments suggested in this Mississippi Headwaters Board plan.

According to a Minnesota Department of Transportation brochure, the purpose of the Great River Road is to "provide a scenic, recreational and historic, parkway-like road along the Mississippi River."

The Great River Road project is authorized for the ten states of Arkansas, Illinois, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Tennessee and Wisconsin.

To assist the governors in the conduct of the feasibility studies and the implementation of the project itself, each of the ten governors appointed a state Mississippi Parkway Commission.

In 1973, Congress authorized $90 million through the Federal-Aid Highway Act, though no funds were immediately appropriated. In the Federal-Aid Highway Act of 1976, Congress also authorized $78.75 million for actual development.

In November, 1978 Congress authorized $140 million in Great River Road funding as a part of the Surface Transportation Act. This authorization, which covers a four-year period, will be available to the ten states only after the 1976 authorization is obligated.

To date, a total of $309 million has been made available to the ten states, of which Minnesota's share is approximately $47 million. This Minnesota share amounts to about $7-$9 million annually. This funding insures continuance of the project through 1982.

During the 1979 Session, the State Legislature through the Legislative Commission on Minnesota's Resources made an additional $400,000 available to participating governmental units to assist in financing recreational amenity projects such as scenic easement purchases, park development, etc. This legislative action resulted in reducing the local share for these amenity projects 25 percent to 12½ percent.

Over the past three years over $21.7 million in Great River Road funds has been obligated in Minnesota. Of this total $5.6 million has been for projects in Clearwater, Beltrami, Itasca, and Aitkin counties. This total includes funds for scenic easement purchases, erosion control and revegetation, and park land development in these counties.

Additional projects in some of the eight member counties are currently moving forward. In addition, the route from Grand Rapids to Bemidji is currently under study, with the Little Falls to Aitkin segment yet to be studied.

LANDS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT (BLM) ALONG THE UPPER MISSISSIPPI RIVER

The Bureau of Land Management is an agency of the United States Department of Interior. It is responsible for the management and administration of 454 million acres of public lands, as well as millions of acres of subsurface mineral ownership and the Outer Continental Shelf. The Bureau ". . . seeks to express a 'multiple-use' concept of management; to achieve the balance required to use lands and minerals wisely, to protect environmental, cultural and historical values, and to help satisfy America's domestic needs for energy, housing, food and fiber; all while providing for leisure enjoyment through outdoor recreation." (From ***The Lake States Bureau of Land Management*** brochure, 1976)

The local office of the BLM is in Duluth, Minnesota. This "Lake States Office" is responsible for the states of Michigan, Minnesota, and Wisconsin. One of the tasks of this office is to develop a complete inventory of the publicly owned islands in the lakes and streams of these states. Since 1966, the Lake States Office, using aerial photos, original survey records, and subsequent field inventories, has found more than 2,700 islands meeting Federal ownership criteria and has compiled information on their values. These islands, along with scattered upland tracts, are a part of the public domain that was originally acquired from France in the Louisiana Purchase of 1803.

The portion of the Upper Mississippi within the Mississippi Headwaters Board study area (Lake Itasca to the southern boundary of Morrison County) contains several of the island and upland areas administered by the Bureau. A complete summary of the acreage and location of these lands is provided at the end of this section.

The islands are of particular interest because of their potential for providing open space, wildlife habitat, and recreational opportunities. Some of them are suitable for use by river travelers as rest stops, picnic areas, and campsites. They are also havens for wildlife.

The BLM has not been involved in any active management of the islands and probably will not change this policy in the future. The islands are currently available for public recreational uses, but no developed facilities have been provided. Some of these islands receive light recreational use at the present time.

The BLM has recently completed a wilderness inventory of uplands and islands in Minnesota in accordance with the Federal Land Policy and Management Act of 1976. None of the BLM administered lands in Minnesota were recommended for wilderness designation, however.

In the past the BLM has entered into cooperative agreement for the management of some of its administered lands. While these agreements are often with other federal land management agencies, such as the U.S. Forest Service, they can also be with other state or local administering agencies.

Some of the islands in the Upper Mississippi may be desirable for development as recreational sites. Many of the islands are located in the Crow Wing and Morrison counties section of the river which has relatively fewer river related recreational facilities than most of the upstream sections. In addition, the islands make ideal recreation sites for river users in some cases since access to them is by water only. This helps eliminate conflicts of use which sometimes occur at recreation sites accessible by road. Another advantage of the islands for recreational use is that they are already in public ownership and their development as recreational sites would not require acquisition of private property.

A more detailed reconnaissance of the islands will be necessary to determine which specific islands are the most suitable or desirable for possible recreational use and whether any facility development would be needed. The Mississippi Headwaters Board may wish to discuss the possibilities for a cooperative management agreement with the BLM for these islands.

The BLM-administered lands along the Upper Mississippi River present excellent opportunities for recreation and wildlife management. To take full advantage of these opportunities, the use and management of these lands should be incorporated into future recreation and land management plans for the Upper Mississippi, including specific cooperative management agreements with the BLM.

Bureau of Land Management Islands and Upland Areas

Summary:

Clearwater County:
No BLM-administered islands or uplands along the Upper Mississippi River

Hubbard County:
No BLM-administered islands or uplands along the Mississippi River

Beltrami County:
No BLM-administered islands or uplands along the Mississippi River

Cass County:
No BLM-administered islands or uplands along the Mississippi River

Itasca County:

Upland Size In Acres	Twp.	Range	Section
.05	55N	26W	14
3.00	55N	27W	14
.75	55N	27W	14
.08	55N	27W	23
23.25	55N	27W	23
17.00	55N	27W	28
14.80	55N	27W	28
.06	55N	27W	28
10.06	55N	27W	33
.07	55N	27W	33

Total 69.12

Aitkin County:

Island Size in Acres	Twp.	Range	Section
1.00	48N	26W	15

Upland Size in Acres	Twp.	Range	Section
.11	47N	26W	6
1.00	47N	27W	10
4.75	50N	24W	24

Total 6.86

Crow Wing County:

Island Size in Acres	Twp.	Range	Section
24.00	133N	28W	16
6.00	134N	28W	34
.50	133N	28W	4
4.50	44N	31W	3
.20	136N	25W	29
1.50	136N	26W	25
.30	136N	27W	25
1.00	136N	27W	25

Total 38.00

Morrison County:

Island Size in Acres	Twp.	Range	Section
1.50	128N	29W	32
2.10	127N	29W	5
2.50	127N	29W	5
.10	127N	29W	5
.10	127N	29W	5
.10	127N	29W	5
.10	127N	29W	5
.10	127N	29W	5
1.50	127N	29W	5
.20	39N	32W	29
2.00	39N	32W	29

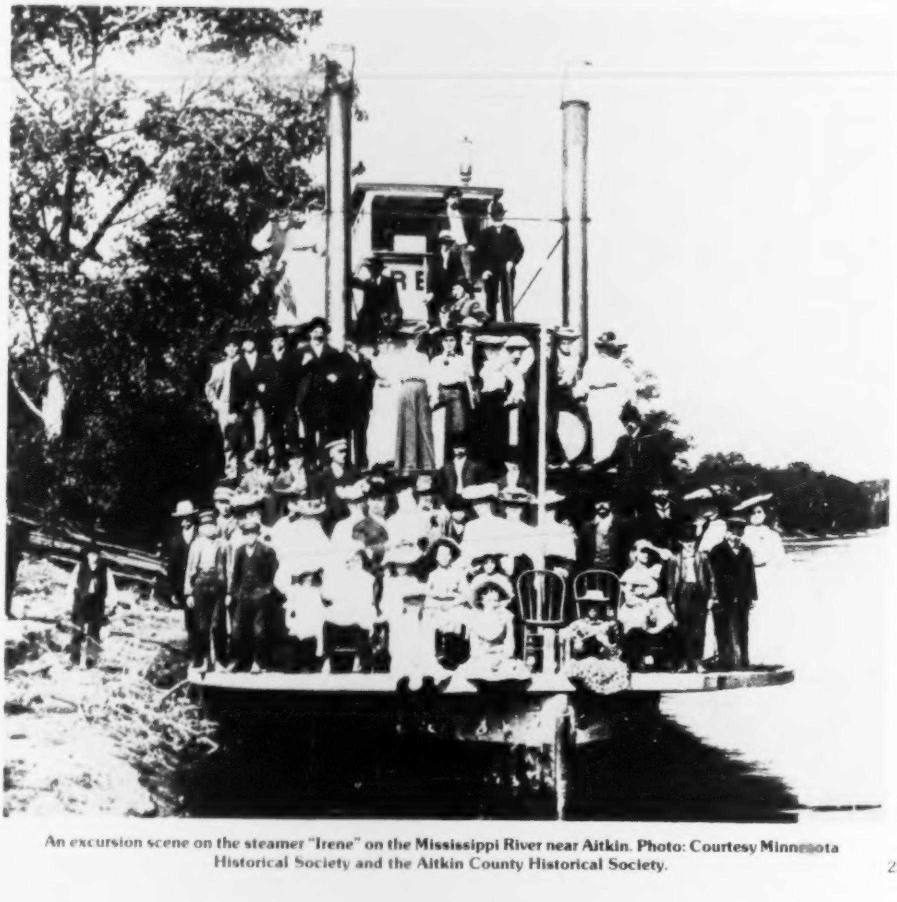
10	39N	32W	29
10	39N	32W	29
20	39N	32W	29
2.00	127N	29W	4
10	39N	32W	32
30	39N	32W	32
4.00	127N	29W	8
6.00	127N	29W	21
7.00	127N	29W	17
10	130N	29W	9
30	130N	29W	9
1.50	130N	29W	16
7.00	130N	29W	16
2.20	130N	29W	16
20	130N	29W	21
5.00	130N	29W	28
20	130N	29W	28
10	130N	29W	28
20	130N	29W	28
1.00	130N	29W	28
6.50	130N	29W	32
10	129N	29W	5
10	129N	29W	5
10	129N	29W	5
10	129N	29W	5
1.00	129N	29W	5
30.00	127N	29W	26
Total 85.80			

Total BLM-administered lands in Mississippi Headwaters Board Study Area

Total for Uplands
13 upland parcels totaling 75.98 acres

Total for Islands
47 island parcels totaling 124.80 acres

Combined Total
60 parcels totaling 200.78 acres



An excursion scene on the steamer "Irene" on the Mississippi River near Aitkin. Photo: Courtesy Minnesota Historical Society and the Aitkin County Historical Society.

The Management Plan

LAND MANAGEMENT

County Lands

Protection of the river will be primarily accomplished through the adoption of a comprehensive zoning ordinance adopted by the member counties in the manner prescribed in Minnesota Statutes Chapter 394, as amended.

However, there are some areas along the river which should be given greater protection than that which is feasible through a zoning ordinance. In these special areas that are needed for public use or for protection of scenic, historic, scientific or other values, greater protection will be provided through the acquisition of fee title, easements or other interests in land.

In all cases, where land or interests in land are purchased it will be done solely on a "willing buyer — willing seller basis." No condemnation of lands or any interests in land will be purchased by the member counties.

As is shown on the maps delineating the zoning district boundary along the river, there already is a considerable amount of publicly owned land along the river.

As a part of the study process, the advisory committee members arrived at agreement on common objectives for the management of these lands. Most notably, there was a consensus to retain the county tax forfeited lands in the public domain as a part of this project rather than to offer them for sale for private development or other non public uses. In addition, these lands are to be perpetually managed in a manner which will maintain or improve their aesthetic, recreational or other qualities.

Several counties have already acted to dedicate these lands as parts of county memorial forest where they will be held and managed as a public trust for fish and wildlife, recreational and other values.

In addition, seven of the eight counties (except Morrison) have considerable county tax forfeited acreage under their jurisdiction, and have a "land commissioner" and staff responsible for their management. These counties have management policies and a comprehensive management plan which provides for the wise use and conservation of these lands and resources.

In preparing this plan, each county plan was examined and critiqued and uniform policies were drafted to guide management of these lands along the river.

State Lands

There are also considerable state owned lands along certain river segments.

While neither the Mississippi Headwaters Board nor the individual counties have direct authority over these lands, it is important that understandings and cooperative agreements be developed for management of public lands along the river.

Until recently a significant impediment existed to more cooperative management of state and county lands for a specific purpose or general resource management. Specifically, the most efficient administration of these lands was not always possible due to "checkerboard" county/state ownership patterns, and there was no procedure by which ownerships could be consolidated.

However, the 1979 Session of the Minnesota Legislature passed a law which greatly increased the counties' and state's ability to better manage these lands. First, it provided a procedure through which counties and the state could exchange lands to consolidate ownerships into more manageable units. This could significantly reduce administrative costs and enhance resource management opportunities, particularly along the Upper Mississippi River within the Mississippi Headwaters Board jurisdiction. In addition, the legislature provided in-lieu of tax payments to the counties for state and county tax forfeited lands within their respective counties. Part of this fund was obligated to tax reduction, the remainder to be used for resource management activities on these lands to improve their public value.

This legislation then, has promoted a "climate" in which responsible management of these public lands is encouraged and supported by many.

Land exchanges between the county and state or among the county, state, and private land owners can be used with considerable effectiveness to increase and consolidate public ownership along the river. Specific recommendations regarding the use of land exchanges between governmental units and private owners are made in this plan.

Unique advantages of this approach are that it does not take any more land from the local tax base, yet ownership can be significantly consolidated or increased along the Upper Mississippi River without the expenditure of large sums of public money. Also it is possible to accomplish such exchanges in a reasonable period of time.

Federal Lands

There are two major federal ownership areas along the Upper Mississippi — the lands within the Chippewa National Forest, administered by the U. S. Forest Service and the land, including numerous islands, administered by the U. S. Bureau of Land Management.

The headwaters reach of the Mississippi also flows through and along Indian lands which are under the control of the respective private owners or the Leech Lake Reservation.

Although there was no formal participation by the U. S. Forest Service personnel in the preparation of this plan, input was solicited from them and forest management guidelines were reviewed as a necessary part of this planning process. In addition, preliminary drafts of new policies and guidelines for Chippewa National Forest recreation and land management activities should be coordinated by the Board with the Forest Service and other land managing agencies.

When this plan is approved as an alternative to federal management of the river as a National Wild and Scenic River, the Board will initiate discussions with appropriate Forest Service personnel to implement the resource management objectives contained in this plan, including proposed cooperative management agreements. Specific land management recommendations for areas of intergovernmental cooperation among present public land managers along the river are also provided in this plan.

Management Guidelines for Public Lands

As a part of the multiple use forest management objectives for public forested lands along the river there is a special need that is recognized by the Board to provide management objectives that are consistent with aesthetic and recreational qualities of the river. Specifically there is a need to manage these lands along the river in a manner that will enhance the aesthetic recreational values and its fish and wildlife resources. To accomplish these objectives the Board has established the guidelines for management of public lands along the river and it is hopeful that formal concurrence with state and federal authorities could be arrived at as part of implementation of this plan. These management guidelines include:

1. Pursuant to state law, no state or county lands bordering the Mississippi river or its tributaries within the management areas shall be offered for public sale.
2. In furtherance of the policy established by the Mississippi Headwaters Board under M.S.A. 471.59, no county or state lands within memorial forests, established under M.S.A. 459.06, bordering the Mississippi River or other public lands within the river management boundary shall be offered for public sale.
3. No new nonrecreational leases of public lands within the river management boundary established by the Mississippi Headwaters Board shall be granted.
4. To the extent practicable and feasible, existing nonrecreational leases of public lands within the river management boundary shall be phased out.
5. The Mississippi Headwaters Board, on behalf of member counties, should work with state and federal authorities to develop a comprehensive agreement for cooperative management of public lands within the designated river management area, to improve fish and wildlife habitat.
6. The Mississippi Headwaters Board, on behalf of member counties, should formulate a plan in cooperation with state and federal authorities for the construction and maintenance of grants in aid trail systems on public lands within their jurisdiction.
7. Counties that already have a land classification system for public lands should continue this process to ensure wise management of these lands in the public interest.
8. Counties which do not presently have a classification system for their public lands should initiate it for lands within the river management area identified in this plan.
9. Priority should be given to completion of the inventory and development of a management plan for wetlands and river oxbows located on public lands within the river management area. This should be developed in cooperation with the Department of Natural Resources Fish and Wildlife Division.
10. Management activities on public lands within the river management area should be conducted in a manner which enhances the natural, archaeological, cultural, aesthetic, recreational, fish and wildlife values of these lands.
11. Management projects and techniques for wildlife production of both game and non-game species should be undertaken to improve the outdoor recreation values of the Upper Mississippi River and its adjacent lands.
12. To the greatest extent practicable, Mississippi Headwaters Board member counties should initiate land

Duck hunting with canoe. Courtesy Minnesota Department of Natural Resources.

exchanges with private landowners who want to exchange their land to increase its public land holdings along the Mississippi River

13. Land exchanges with the State of Minnesota should be undertaken to consolidate blocks of public lands in same ownership, in order to develop more easily managed public ownerships.
14. Where critical lands are acquired in fee title, from willing sellers, individual member counties may wish to consider sale of other lands outside the management boundaries in order to offset any possible reduction in local tax base
15. Within available funding, the counties will attempt to purchase scenic easements or other interests in land, from landowners who desire to sell them and where such purchases are desirable to protect unique shoreland areas
16. The MHB, on behalf of its member counties, will assist in preparing cooperative agreements with state and federal agencies such as the Minnesota Department of Natural Resources, U.S.F.S and the Bureau of Land Management, for the management of recreation, land and water resources

ADMINISTRATION

The Mississippi Headwaters Board is constituted as an eight county joint powers board composed of one county commissioner from each of the eight member counties.

The joint powers agreement signed by representatives of the eight member counties currently includes procedures for orderly succession of members and permanence of the agreement

However, the MHB, on behalf of the member counties, will seek specific state legislation to further ensure the permanency of the Board, succession of members from each county and provide authority to review and certify certain county zoning decisions

If this proposed legislation is enacted, the ordinance proposed in this plan would be amended to include this certification procedure.

The specific review and certification procedure is included in the model ordinance section of the plan and in the section entitled "Proposed Ordinance Review and Certification Procedure"

In order to save time, expenses and increase the likelihood of securing state and federal funding the Board's staff would also prepare grant applications to get state and federal funding for the Board and the individual counties to assist in plan implementation. The anticipated funding sources to be pursued by the Board are described further in the Financing Section of this plan

The Board can also assist member counties in relations with state and federal agencies which have jurisdiction over lands and waters within the boundary of the proposed zoning district.

Board staff can assist the counties in identifying lands that would be desirable to exchange with state and federal agencies or willing private landowners.

Also, the Board and its staff can also serve as a general contact for landowners or the general public who have specific concerns about river management, plan administration or the like

On behalf of the member counties, the Board also intends to seek direct state funding to finance its staff support and the objectives described in this plan.

Throughout the process of plan preparation, the Board has utilized two advisory committees: a technical advisory committee and a citizens advisory committee. The assistance of these committees in preparing this plan was invaluable.

The Board intends to merge these two committees into a single advisory committee. The purpose of this committee will be to advise the Board and the member counties on the various aspects of implementing its river management plan. Like the existing committees, the membership of this advisory committee to the MHB is intended to include the broadest possible range of citizen interests ~~and expertise~~. It would include representatives of several levels of government and private citizens. This committee would likely include: landowners, county and township representatives, DNR and U.S.F.S. staff and representatives of conservation, industry and labor organizations

This advisory committee, like the Board, would also meet on a regular basis to assist and advise them on matters which should be addressed by them. It is impossible to precisely predict how many Board and/or advisory committee meetings will be necessary each year

However, we have estimated per diem and related travel expenses based on 15 meetings each year over the next two-year period

Further, arrangements will be made through the Cass County Auditor's Office to establish a regular meeting schedule. Establishing a regular meeting schedule should further improve the Board's efforts to have all of its meetings convenient for the participants, media and the general public

Currently administrative control over public lands and water within the land use district boundary rests with several federal, state and local authorities including the U.S.F.S., U.S. Army Corps of Engineers, U.S. Bureau of Land Management, Leech Lake Reservation, Minnesota Department of Natural Resources, Minnesota Pollution Control Agency, Minnesota Department of Transportation, watershed districts, soil and water conservation districts, the eight counties themselves and others

This plan does not recommend any changes in this multi-agency jurisdiction. However, the MHB will endeavor to work with these agencies and to coordinate its activities with them in order to eliminate duplication of efforts/programs and expenses, and to improve overall management.

Discussions have already been started with several of these agencies to ensure timely, cooperative implementation of this plan.

Some specific areas of cooperation between the Mississippi Headwaters Board, its member counties, and state or federal agencies are identified in the Recreation Management and Land Management sections of this plan.

FINANCING

We have estimated the cost for plan implementation over the next year period. It is our belief that the proposed budget is a realistic appraisal of costs over this period since it is: (1) based on current county operating expenditures for such activities; (2) utilizes existing state and federal grant programs where necessary local match is known and calculable, and (3) based on a workload analysis of each county in developing financial data.

The Board intends to seek a direct state appropriation to pay for staff and administrative support necessary to carry out its functions described in this plan. The estimated budget for board administration is $174,750 for 1981-82. Presently, no direct federal appropriation request will be made by the Board. Use of existing state and federal grant programs can provide a significant amount of state and federal funding match for a minimal level of local matching funds. Further, it is recommended that the local match could be obtained or covered through funding available in existing county programs.

While many of these existing grant programs are competitive, a considerable number of contacts with state and federal administration of these grant programs has already been made. Based on the initial reaction of these officials to the MHB project, we believe that it is likely that the funding requests prepared by the Board will get full consideration by them for funding.

Further, because of the uniqueness of this endeavor and the magnitude of the project undertaken by the counties, we believe it will further increase the likelihood for getting the funds necessary to implement the plan.

A list of some of the likely state and federal programs which are currently available to help finance the implementation of the various aspects of this program include:

Recreation Management Implementation

Great River Road — Through this program "amenity" projects such as park and recreation area acquisition and development, scenic easements purchases and other recreation-oriented projects can be financed on a local, state, federal cost-sharing basis. With additional funds provided by the 1977 Legislature for amenity projects, the cost share formula is 12.5 percent local, 12.5 percent state and 75 percent federal. According to the Minnesota Department of Transportation, other funds which are eligible for the 30 percent match on Great River Road projects include: 1) Federal Revenue Sharing, 2) Economic Development Assistance Grants, 3) HUD Block Grants, and 4) Upper Great Lakes Regional Development Commission funding (through Economic Development Assistance Funds).

Canoe and Boating Route Program — The Minnesota Department of Natural Resources administers the state Canoe and Boating program. The state legislature has established a canoe and boating route system consisting of 18 designated rivers throughout the state (MSA 85.32). The Mississippi River was one of the first rivers to be included in this system.

The purpose of the program is to enhance the recreational use of rivers. In addition to providing for the marking of river hazards and points of interest, the legislation authorizes the acquisition and development of canoe campsites, rest areas, accesses, and portages. The Commissioner of Natural Resources is also authorized to work in cooperation with local units of government in the development of recreation sites.

In the past, the Department of Natural Resources has entered into cooperative agreements or more formal contracts with local government agencies. The Department has provided such items as signs, picnic tables, and fire grates. It has also undertaken facility development on lands from local governments.

Land and Water Conservation Fund (LAWCON) — The Federal Land and Water Conservation Fund is a grant program to state and local units of government for assistance in acquiring land and developing basic facilities for park and outdoor recreation purposes. Counties, cities, towns, and special park districts or elected park and recreation boards in cities of the first class are eligible to apply for these grants. Some of the funds for Minnesota are administered through the Legislative Commission on Minnesota's Resources (LCMR).

Eligible projects include **acquisition** of land for **future** development as a park or outdoor recreation facility and **development** of eligible facilities on land owned or under long-term lease by the applicant. Certain facilities are ineligible.

Funding is provided on a cost-share basis at various percentages provided through LAWCON grants, LCMR grants, and the local government share. In general, this breaks down as follows:

LAWCON grants	— 50 percent
LCMR grants	— 25 percent
Local Share	— 25 percent

The Office of Local and Urban Affairs, Minnesota State Planning Agency, provides information and assistance for the LAWCON program.

It should be noted that development of recreation sites by the individual counties, or in cooperation with state or federal agencies, will depend on availability of funds and an assessment by the county for the appropriateness of such development.

Planning and Zoning Implementation

There are both state and federal grant programs to assist in the costs of financing comprehensive planning, zoning ordinance adoption and other related activities. Most notably HUD and State Planning Agency grants have been, and can be, used for this purpose. Priority consideration is frequently given to those projects which address a regionally significant (multi-county) concern.

Public Land Management

A portion of the state payments-in-lieu-of-tax monies provided to counties which have county tax forfeited, state or federal lands within their boundaries, is intended to be used to improve the management of county owned lands. (Part of this fund is also dedicated to provide local tax relief.)

In addition, federal in-lieu of payments to the counties may also be used for this purpose.

The recommendations in this plan to undertake fish and wildlife and timber stand improvement projects could be financed in part from these sources.

Many of these estimated county share costs can be used as match to get state and federal funding assistance.

It should also be noted that based on information received from county staff, it is not anticipated that implementation of this program by the MHB and its member counties will require any increase in staff at the county level.

State and federal matching funds are available for purchase of critical lands, or interests in lands, from landowners who desire to sell. A two year budget has been prepared for this purpose. Future purchases would be based on the success of this program and the continued availability of willing sellers.

In summary, a reasonable, effective, and sustained program of zoning, recreation management and land management can be accomplished largely through use of existing state and federal grant programs, and will require only a small direct state appropriation to supplement them.

MODEL ZONING ORDINANCE

Introduction

The primary method by which the Mississippi Headwaters Board plan proposes to protect the Upper Mississippi is through the adoption of a comprehensive local zoning ordinance.

The draft ordinance which follows is the result of many meetings with the advisory committees, composed of county zoning officers, land commissioners, township officers, landowners and others.

The ordinance sets minimum standards for such things as lot size, building setbacks, sewage treatment and permitted and conditional uses within the shoreland area. It also includes guidelines for such activities as new road construction, utility construction, timber harvesting and grading or filling.

These standards or guidelines vary according to the particular river segment. There are two separate zones identified on the zoning classification description included in this section of the plan. Zone classification #1 includes that segment of the river from Lake Itasca to river mile 47 (Iron Bridge area). This corresponds to the "Headwaters Unit," proposed in the National Park Services' Conceptual Master Plan for "wild" classification. Certain provisions of the proposed zoning ordinance are more protective for this zoning classification in recognition of its outstanding natural characteristics.

The remaining segments of the river are assigned zone classification #2. These segments include those areas recommended for "scenic" classification by the National Park Service as well as substandard additional shoreland areas.

In addition, shoreland zoning standards for several headwaters area lakes have been upgraded.

The minimum standards contained in the model ordinance would apply to lands under the jurisdiction of the counties along the Mississippi River within the boundaries delineated on the maps (1-79) shown in the plan. The boundary was drawn to correspond, to the extent possible, to existing property lines or government survey lines. This was done to make local administration easier. In addition, it was felt that a boundary that was drawn to follow property lines could better account for sound management of public lands, resource protection, and private ownership considerations. This alternative was chosen to the minimum 1000 foot zoning area that exists around all lakes included in the present shoreland management program.

This ordinance, once adopted by the individual counties, would be administered by them. Building permits would continue to be issued by the individual county zoning authorities. However, in order to provide for consistency of local administration, certain actions would also be reviewed by the Mississippi Headwaters Board.

Also, this plan proposes that certain aspects of the existing shoreland ordinances that apply to the headwaters lakes would be upgraded. Because of the existing development along these lakes, it was felt that separate minimum standards should apply. These suggested standards and the lakes to which they would apply are also described in this section of the plan.

Finally, the adoption and administration of this comprehensive ordinance at the local level, together with the implementation of the other recommendations in this plan, should provide a sound long-term alternative to federal acquisition and management.

Early boater on the Upper Mississippi north of Lake Itasca. Courtesy Minnesota Historical Society.

Model Ordinance

Section 1 – Policy and Authorization

An ordinance for controling shoreland development in order to protect the Upper Mississippi River and its adjacent lands in ________, Minnesota, under the authority contained in M.S.A. 471.59, and in furtherance of policies contained in Minnesota Statutes Chapters 104, 105, 115, 116, 394, 396, the Mississippi Headwaters Board joint powers agreement and the Mississippi Headwaters Board management plan for the Mississippi River and certain headwaters lakes referred to in this ordinance. This management plan shall hereinafter be referred to as the "Upper Mississippi River Management Plan."

The County Board of Commissioners of ________, Minnesota does ordain:

Section 2 – Title

This ordinance shall be known, cited and referred to as the ________ Upper Mississippi River Conservation Ordinance, except as referred to herein, where it shall be identified as, "this ordinance."

Section 3 – Purpose

This ordinance is adopted to achieve the policy of Section 1 and to:

1. To comply with the Mississippi Headwaters Board joint powers agreement and in furtherance of the policy statement contained herein.
2. In furtherance of the objectives and policies contained in the Upper Mississippi River Management Plan for protection of the Mississippi River and adjacent lands and certain headwaters lakes.
3. Designate zoning districts along the Mississippi River which are contained within the Upper Mississippi River Management Plan.
4. Regulate the area of lot, length of lot, width of lot at the water line, setback of structures, sanitary waste treatment systems, structure height, and to protect the existing quality of Mississippi River shoreline, its vegetation soils, water quality, flood plain areas and geology.
5. Regulate alterations of the shoreland vegetation and topography.
6. Maintain property values and prevent uncontrolled or poorly planned development.
7. Prevent pollution and overcrowding.
8. Protect and conserve the historic, recreational, archaeological, cultural, fish and wildlife resources of the Mississippi River and adjacent lands.
9. Provide for wise use and management of the Mississippi river its adjacent lands and resources.
10. Promote the general health and welfare.

Section 4 – General Provisions

1. Jurisdiction
   a. The jurisdiction of this ordinance shall include all lands contained within the Mississippi River and headwaters lakes zoning district(s) within the jurisdiction of ________ as identified in this ordinance and on map(s) ________ contained in the Upper Mississippi River Management Plan. The above specified maps are hereby adopted as a part of this ordinance.

   b. The jurisdiction of this ordinance shall not include lands within incorporated areas on the date of adoption of this ordinance.

   c. When land within the zoning district(s) is annexed, incorporated or in any other way transferred to another jurisdiction, a moratorium shall exist on all subdivision platting, building permits, construction, grading and filling, and vegetative cutting until the newly responsible unit of government adopts zoning for that land. The zoning shall meet the provisions of these rules that applied to the land before the transfer. This provision does not apply to work for which lawful permits were previously issued.
2. Compliance
   a. The use of the Mississippi River shorelands, the size and shape of the lot, the type, dimensions and location of structures on the lot, the installation and maintenance of water supply and waste treatment facilities, the filling, grading, lagooning or dredging of any Mississippi River shoreland area, the cutting of shoreland vegetation and the subdivision of lots as prescribed in the ________, Minnesota Subdivision Controls Ordinance shall all be in full compliance with the terms of this ordinance, said subdivision controls ordinance, 6MCAR 4.8040 as promulgated by the Minnesota Pollution Control Agency and Minnesota Department of Health regulations. Said regulations are hereby adopted and made a part of this ordinance by reference.
3. Abrogation and Greater Restrictions
   a. This ordinance supersedes all provisions which are less restrictive of any ________, Minnesota zoning ordinance that applies to Mississippi River shoreland or flood plain areas or shoreland areas of the headwaters lakes designated in this ordinance.

   b. This ordinance does not prohibit local governments from adopting or continuing in force, by ordinance, regulations of the Mississippi River or headwaters lakes and its adjacent lands, which are more restrictive than those required by this ordinance.

   c. it is not otherwise intended, nor shall it be construed by this ordinance, to repeal, abrogate or impair any existing deed restrictions or ordinances thereof other than zoning to the extent specified in 3 (a) above. However, when this ordinance imposes greater restrictions the provisions of this ordinance shall apply.
4. Severability
   a. The provisions of this ordinance shall be severable, and the invalidity of any paragraph, subparagraph or subdivision or any other part thereof shall not make void any paragraph, subparagraph, or subdivision or any other part. If any court of competent jurisdiction shall adjudge invalid any provision of this ordinance or the application of this ordinance to a particular property, building, or other structure, such judgment shall not affect any other provision of this ordinance or any other property, building or structure not specifically included in said judgment.
5. Definitions
   For the purpose of this ordinance for ________, Minnesota, certain words and terms used herein shall be defined as follows.

   The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

"Agricultural Use" means use and management of land for production of crops or raising of livestock and poultry. This use shall include all needed structures and facilities and maintenance and cleaning of ditches.

"Building Line" means that line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions.

"Campground" means an area accessible by vehicle and containing campsites or camping spurs for tent and trailer camping.

"Cluster Development" means a pattern of subdivision development which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.

"Commissioner" means the Commissioner of the Minnesota Department of Natural Resources.

"Conditional Use" means a use of land which is permitted within a zoning district only when allowed by the County Board of Commissioners or their legally designated agent after a public hearing to which certain conditions are attached which shall eliminate or minimize the incompatibility with permitted uses of the district.

"Essential Services" means underground or overhead gas, electrical steam or water distribution systems, collection, communication supply, or disposal systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith, but not including buildings or transmission services.

"Flood Plain" means the areas adjoining a watercourse which have been or hereafter may be covered by a regional flood.

"Forestry" means the management, including growing or harvesting of a forest, woodland or plantation, including the construction, alteration or maintenance of woodsroads and landings and the related research and educational activities.

"Hardship" means, as used in connection with a variance under this ordinance, the property in question cannot be put to a reasonable use under the conditions allowed by this ordinance. Economic considerations alone shall not constitute a hardship if any reasonable use for the property exists under the terms of this ordinance.

"Lot" means a parcel of land designated by metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof. For the purposes of these regulations, a lot shall be considered to be an individual building site which shall be occupied by no more than one principal structure equipped with sanitary facilities.

"Mining Operation" means the removal from the land of stone, sand and gravel, coal, salt, iron, copper, nickel, granite, petroleum products or other minerals or materials for commercial, industrial, or governmental purposes.

"Mississippi Headwaters Board" means a board composed of one county commissioner from Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison counties, formed as a joint powers board pursuant to M.S.A. 471.59.

"Mobile Home" means living quarters designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like. A mobile home will be defined by reference to the latest publication of the United States of America Standard Institute Standards for Mobile Homes.

"Nonconforming Use" means any use of land established before the effective date of this county ordinance which does not conform to the use restrictions of the particular zoning district. This should not be confused with substandard dimensions of a conforming use.

"Ordinary High Water Mark" means a mark delineating the highest mark level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ordinary high water mark is not evident, setbacks shall be measured from the streambank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters, and sloughs.

"Open Space Recreational Uses" means recreation use particularly oriented to and utilizing the outdoor character of an area, including hiking and riding trails, primitive campsites, campgrounds, waysides, parks and recreation areas.

"Planned Cluster Development" means a pattern of subdivision development which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.

"Planned Unit Development" means a variety of land uses planned and developed as a unit.

"Primitive Unit Development" means a variety of land uses planned and developed as a unit.

"Primitive Campsites" means an area that consists of individual remote campsites accessible only by foot or water.

"Resort" means a private recreational development which includes several structures intended for habitation, on a temporary basis, for relaxation or recreational purposes.

"Selective Cutting" means the removal of single scattered trees.

"Setback" means the minimum horizontal distance between a structure and the normal high water mark or between a structure and a road or highway.

"Sewage Disposal System" means any system for the collection, treatment and dispersion of sewage, including but not limited to septic tanks, soil absorption systems, and drain fields.

"Single Family Dwelling" means a detached building containing one dwelling unit, including modular homes assembled on the site and placed on a permanent foundation, but not including mobile homes.

"Structure" means any building, sign, or appurtenance thereto, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, or gas lines, including towers, poles and other supporting appurtenances.

"Subdivision" means improved or unimproved land or lands which are divided for the purpose of ready sale or lease, or divided successively within a five year period for the purpose of sale or lease, into three or more lots or parcels of less than ten acres each, contiguous in area and which are under common ownership or control.

"Substandard Use" means any use existing prior to the date of enactment or amendment of a county or local ordinance which is permitted within the applicable land use district but does not meet the minimum lot area, length of water frontage, structure setbacks or other dimensional standards of the ordinance.

"Travel Trailer or Camper" means a unit eight (8) feet wide and less than thirty five (35) feet in length, designed for short-term occupancy and designed to be pulled behind a vehicle, upon the frame of a truck, or self-propelled unit.

"Variance" means any modification or variation of official controls where it is determined that by reason of exceptional circumstances the strict enforcement of the official controls will cause unnecessary hardship.

"Water Management of Flood Control Structure" means a dam, flood wall, wingdam, dike, diversion channel, or an artificially deepened or widened stream channel following the same or approximately the same course as the natural channel, or any other structure for altering or regulating the natural flow condition of a river or stream. The term water management or flood control structure does not include pilings, retaining walls, gabion baskets, rock riprap, or other facilities intended primarily to prevent erosion.

"Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water, commonly referred to as bog, swamp, or marsh, identified as class 3, 4, or 5 in the public waters classification system or as reclassified based on the U.S. Fish and Wildlife Service classification system.

"Zoning District" means the lands identified on maps for the application of zoning standards which are contained in the Mississippi Headwaters Board plan for the interlocal management of lands adjacent to the Upper Mississippi River, within its jurisdiction.

Section 5 – Designation of Zoning District Boundaries

1. In order to protect and manage the Mississippi River and its shoreland, the Mississippi River in ________, Minnesota has been classified as ___. The uses and classifications of the River and its shoreland are hereby designated by zoning districts, the boundaries of which are identified on the zoning maps ___. Certain headwaters lakes are also regulated by this ordinance. These maps are designated as the ___ offical zoning maps, which are made a part of this ordinance and are on file with the ________ authority.
2. Final determination of the exact location of the zoning district and its boundaries shall be made by the ________ zoning authority or the Board of Adjustment.

Section 6 – Minimum Dimensional Standards

1. The following chart establishes the minimum standards for lot size, lot width, building setback, and other requirements for each zoning classification district for the Mississippi River.

Dimensional Standards*

Description	River Classification 1	River Classification 2
Lot size	10 ac	5 ac
Building Setback	200'	150'
Lot Width at Building Line	330'	330'
Lot Width at Water Line (O.H.W.M.)	330'	330'
Sewage System	150'	125'
Maximum Residential Structure Height	35'	35'

*These dimensional standards would apply only to future development. (Existing developments would be "grandfathered in".)

2. Buildings used for agricultural purposes are exempt from maximum structure height restrictions.
3. Substandard Lots

   Lots of record in the Office of the County Recorder on the effective day of enactment of this ordinance which do not meet the minimum dimensional requirements of this ordinance shall be allowed as building sites provided: such use is permitted within the zoning district(s); the lot was in separate ownership; the lot meets the land suitability requirements of the ordinance, and all sanitary and dimensional requirements are complied with, to the greatest extent practicable.
4. Structure Setback from Roads

   The structure setback from highways, roads, streets, and alleys shall be subject to the minimum setback requirements of the County zoning ordinance.

Section 7 – Uses Within the Zoning District(s)

1. The purpose of regulating uses within the zoning district is to maintain the existing environmental quality of the Mississippi River and its shoreland and to prohibit new uses which are incompatible with the purpose of this ordinance and the Upper Mississippi River Management Plan.

2. Permitted, Conditional, and Nonpermitted Uses

   a. In the following uses:

      P means permitted

      C means conditional

      N means nonpermitted

   Certain of the following uses are subject to the Minimum Dimensional Standards and Sanitary Provisions of this ordinance. All of the following uses are subject to the Vegetative Cutting Provisions of this ordinance.

   b. **Permitted, Conditional and Nonpermitted Uses**

Use*	River Classification 1	River Classification 2
Single family residential	P	P
Mobile Homes	C	C
Related essential services	P	P
Agricultural uses	P	P
Forestry uses	P	P
Private roads and minor public streets	C	P
Underground mining	N	C
Public roads	C	C
Utility transmission, power lines	C	C
Signs necessary for public health, safety and recreational uses	P	P
Other signs not visible from the river	C	C
Government campgrounds, recreational developments	C	C
Private campgrounds, recreational developments	C	C
Planned Cluster	N	C
Planned Unit	N	C
Public access with boat launches	C	C
Permanent docks	C	C
Temporary docks	P	P
Public access with trail type access	P	P
Boathouses	N	C
Trevel Trailers and Campers	C	C

* Uses not listed in the table above as permitted or conditional will be considered as nonpermitted. Note Section 14, (2)(a) and (b) regarding nonconforming uses and substandard uses.

   c. Mobile homes shall be subject to the following conditions:

      (1) All minimum dimensional standards and sanitary provisions of this ordinance that apply to single family residential structures and uses.

      (2) Mobile homes shall have their wheels and running gear removed and shall be placed on a permanent foundation.

      (3) Mobile homes shall be at least 35' in length.

      (4) Mobile homes may be allowed only on land owned by the occupant of the mobile home.

      (5) All other conditions that may be required by the County zoning ordinance or subdivision regulations.

   d. Travel Trailer or Campers

      (1) Shall be subject to all minimum dimensional standards and sanitary provisions of this ordinance that apply to single family residential structures and uses.

      (2) Shall not be used for the purpose of permanent occupancy.

      (3) Shall be subject to all additional conditions that may be required by the County zoning ordinance or subdivision regulations.

Section 8 – Sanitary Provisions

The sanitary provisions standards set forth in Minnesota Regulations Cons 72 of the Statewide Standards and Criteria for Management of Shoreland Area of Minnesota shall apply, except that the provisions of Cons 72(b) (4) are superseded by the setback provisions for sewage systems in Section 6 of this ordinance and Minnesota Pollution Control Agency regulations 6 MCAR 4.8040, which are hereby adopted by reference, where more protective.

Section 9 – Vegetative Management Provisions

1. General Provisions

   The removal of natural vegetation shall be limited to prevent erosion into public waters, to consume nutrients in the soil, to provide wildlife habitat and a corridor for movement, and to preserve the scenic and aesthetic character of the shoreland.

   Forest management shall be permitted but limited to generally accepted forest management practices designed to promote and manage a healthy forested area. Emphasis shall be placed on the maintenance, development, and improvement of riverfront forests subject to the regulations set forth in this section.

2. Vegetative Cutting Provisions

   a. On lands within the building setback distance of the ordinary high water mark of the Mississippi River the following standards shall apply:

      (1) Clearcutting, except for any authorized public services such as roads and utilities, shall not be permitted unless approved as part of a specific management plan and subject to the requirements of Section 9(2)(c) of this ordinance.

      (2) Selective cutting of trees in excess of four inches in diameter at breast height shall be permitted providing cutting is done in such a manner as to maintain as much forest cover as reasonably possible.

      (3) The vegetative cutting provisions of Section 9(2)(a)(1) and (2) shall not be deemed to prevent:

         (aa) The removal of diseased or insect infested trees, or of dead, dying, rotten, or damaged trees that present safety hazards.

         (bb) Pruning of understory vegetation, shrubs, plants, brushes, grasses, or harvesting of crops, or cutting of suppressed trees or trees less than four inches in diameter at breast height.

   b. Clearcutting anywhere within the Mississippi River zoning district boundaries of this ordinance shall be subject to the following standards and criteria:

      (1) Clearcutting shall be conducted only in such a manner as to minimize damage to soils, slopes, or other watershed conditions that are fragile and subject to erosion, sedimentation, or other injury.

      (2) Clearcutting shall be conducted only in such a manner as to maintain as much forest cover as reasonably possible and cutting boundaries shall follow topographic terrain, roads, and forest type changes where feasible. Skidding shall be conducted in such a manner as to minimize erosion and sedimentation.

      (3) The size of clearcut areas shall be kept at the minimum necessary.

      (4) Where feasible, all clearcuts shall be conducted between September 15 and May 15, or when conditions are such that damage is minimized.

      (5) Where erosion problems exist, erosion control measures shall be taken. If replanting is necessary for proper regeneration, it shall be performed in the same spring or the following spring. Replanting of long lived species shall be promoted.

      (6) Consideration shall be given to methods for improvement of wildlife habitat.

      (7) Proper site preparation shall be completed, including slash disposal, so as to minimize fire danger, improve reproduction, reduce soil damage, reduce danger from insects and diseases, and improve wildlife habit and aesthetic characteristics.

      (8) In no instance shall clearcutting violate the regulations for shoreland alterations set forth in the model ordinance for the management of shoreland areas, Minn. Reg. Cons. 77, Section 4.31.

c. On lands within the building setback distance of the ordinary high water mark of the Mississippi River that are being managed primarily for **forestry** purposes the following standards shall apply:

(1) The vegetation management goals for such lands shall be for the maintenance and regeneration of aesthetically pleasing and healthy forest vegetation through the application of generally accepted silvicultural techniques.

(2) Vegetation consisting of a variety of cover types and of naturally associating different species shall be encouraged.

(3) Forest type conversions shall favor long lived species that are naturally suited to that particular site.

(4) Management of long-lived species along the riverfront shall be directed at promotion of large sized trees by using rotations based on biological age rather than economic age.

(5) Cutting, including clearcutting, may be allowed only after the preparation and approval of a specific management plan for such lands being managed for forestry purposes and subject to the following standards and criteria:

(aa) Cutting shall be subject to the standards and criteria set forth in Section 9(2)(b) of this ordinance.

(bb) A specific written management plan shall be prepared by a professional forester and submitted for review and approval to the designated appropriate county official.

(cc) The management plan shall contain a description of the proposed cutting operation and a summary of how the operation will comply with the standards set forth in this section and Section 9(2)(b) of this ordinance, including the following information:

- How the proposed vegetation management plan will protect or enhance the scenic and aesthetic character of the river shoreland.
- Description of property, including both a legal description and a general description.
- The general description shall include a description of the location, size, topography, soils, and access to the vegetation management area.
- A map of the proposed vegetation management area including proposed cuts, roads, and other associated operations.
- A timber type analysis including type, acres, age, site analysis, condition, and recommendations for management of timber, fish and wildlife habitat, recreation, and water protection.
- The name, address and phone number of the person or persons who will be in charge of the proposed vegetation management project.
- Any additional information that the designated county official may require for proper review of the management plan.

(dd) The management plan shall be made available by the designated appropriate county official for review, upon request, to the Mississippi Headwaters Board, the Minnesota Department of Natural Resources, and, if the proposed cutting operations are within the boundaries of the Chippewa National Forest, to the U.S. Forest Service.

d. On lands within the headwaters lakes specified in this ordinance the following standards shall apply:

(1) The regulations for shoreland alterations set forth in the model ordinance for the management of shoreland areas, Minn. Reg. Cons. 77, Section 4.31, or any county shoreland regulations for those lakes which are more protective, shall apply.

Section 10 – Grading, Filling, Alterations in the Beds of Public Waters in the Zoning District

1. Any grading or filling work done within the Mississippi River zoning district(s) controlled by this ordinance shall require a permit and shall comply with the following:
2. Grading and filling of the natural topography which is not accessory to a permitted or conditional use shall not be permitted in the Mississippi River zoning district(s).
3. Grading and filling of the natural topography which is accessory to a permitted or conditional use shall not be conducted without a grading and filling permit from the , Minnesota zoning authority. A grading and filling permit may be issued only if the conditions of subsection 4, 5a-d are met.
4. Grading and filling of the natural topography that is accessory to a permitted or conditional use shall be performed in a manner which minimizes earth moving, erosion, tree clearing, and the destruction of natural amenities.
5. Grading and filling of the natural topography shall also meet the following standards:
   a. The smallest amount of bare ground is exposed for as short a time as feasible.
   b. Temporary ground cover such as mulch is used and permanent ground cover, such as sod, is planted.
   c. Methods to prevent erosion and to trap sediment are employed.
   d. Fill is stabilized to accepted engineering standards.
6. Excavation of material from, filling in, construction of any permanent structures or navigational obstructions, or any work that will change or diminish the course, current, or cross-section of the Mississippi River, headwaters lakes, or wetlands is prohibited unless authorized by a permit from the Commissioner of Natural Resources pursuant to Minnesota Statutes Section 105.42.
7. Drainage or filling in of wetlands is not allowed within the land use district(s) controlled by this ordinance.

Section 11 – Utility Transmission Lines and Related Facilities

1. It is essential to regulate utility transmission crossings of lands within the jurisdiction of the local authority within the Mississippi River zoning district(s) in order to provide maximum protection and preservation of the natural environment and to minimize any adverse effects which may result from such utility crossings. These standards and criteria considerations concerning such a proposed crossing.
2. For each of the standards listed, the applicant shall indicate how he is satisfying the consideration where applicable, or if he is not, why not. In dealing with route design considerations the applicant must, where applicable, also supply data on relevant site conditions. The county zoning authority may issue a conditional use permit only if the applicant shows he has, to the extent feasible, satisfied these standards.
3. The applicant shall submit both a preferred route and at least one alternate route for the proposed utility transmission crossing to the county zoning authority.
4. In general, avoid the Mississippi River land zoning district(s), whenever practicable, but if there is no feasible alternative, the standards listed below shall apply.
5. No conditional use permit shall be required for high voltage lines regulated by the Environmental Quality Board pursuant to Minnesota Statutes Section 116 C. 61, as amended.
   a. All utility crossings (transmission and distribution) of the Mississippi River on state lands within the zoning district(s) which are under the control of the Commissioner of Natural Resources, require a permit from the Commissioner pursuant to Minnesota Statutes, Sections 84.415 or 105.42. In reviewing permit applications for such crossings, primary consideration should be given to crossings that are proposed to be located with or adjacent to existing public facilities, such as roads and utilities.
   b. Utility transmission crossings of lands under the jurisdiction of the county zoning authority within Mississippi River zoning district(s) require a conditional use permit from the county zoning authority. (Transmission means electric, power, telephone and telegraph lines, cables, or conduits which are used to transport large blocks of power between two points — with respect to electric power, generally 69 kilovolts or more — or main or pipeline crossings for gas, liquids, or solids in suspension which are used to transport large amounts of gas, liquids or solids in suspension between two points.) Distribution means lines, cables, or conduits, or mains or pipelines used to distribute power, water, gas, or other essential services to the utility company's customers. A conditional use permit is not required for essential services.

(1) Route design — Criteria for Utility Transmission Crossings

(aa) Avoid steep slopes where the combination of slope, soil, vegetation, and right of way clearing will be detrimental.

(bb) Avoid intrusions into open exposures of water.

(cc) Avoid routing along ridge crests or high points of topographic elevation.

(dd) Avoid creating tunnel vistas by, for example, building deflections into the route or using acceptable screening techniques. This is applicable where the right-of-way is visible from the river.

With regard to location:

(ee) Avoid entering areas within 200 feet of the Mississippi River. Consideration shall be given to soil, slope and vegetation characteristics and transmission design. This setback shall not apply to crossings of the Mississippi River in cases where placement of transmission structures outside the 200 foot setback would result in considerably higher or more conspicuous structures.

Avoid routing or siting utility transmission lines within river classification zone #1.

With regard to vegetation:

(ff) Avoid wetlands, except in situations where a route crossing wetlands may be the least environmentally damaging alternative.

(gg) Avoid passing through commercial or managed forests whenever practicable.

If it is necessary to route through forests, then utilize open areas in order to minimize destruction of forest resources.

With regard to soil characteristics:

(hh) Avoid areas where a combination of soil, vegetation, and slope characteristics and right-of-way clearing will cause soil erosion or slippage or create sedimentation problems during or after construction.

(ii) Avoid areas with high water tables, especially if construction requires excavation.

With regard to crossing public waters:

(jj) Utility crossings of public waters requires a permit from the Commissioner pursuant to Minnesota Statutes, Section 84.415 or 105.42.

(kk) Avoid open space recreation areas whenever practicable.

(2) Structure Design
With regard to locating the utility overhead or underground:

(aa) A critical evaluation of all factors shall be made in determining the preferred design but consideration must be given to underground placement and other measures to minimize visual impact. If the proposal is for overhead placement, the applicant shall explain the economic, technological, or land characteristic factors which make underground placement infeasible.

Economic considerations alone shall not be the major determinant.

(bb) If overhead design is necessary, the crossing should be screened from view as much as practicable.

With regard to the appearance of the structures:

(cc) They shall be made as compatible as practicable with the natural area as design limitations allow with regard to height and width, materials used, and color. The height of structures should be proportional to the length of the conductor span.

With regard to the width of the right-of-way:

(dd) The cleared portion of the right-of-way should be kept to a minimum so as to maximize the screening benefit of natural vegetation while meeting design clearance requirements.

(3) Construction Methods

(aa) If necessary, construction in wetlands shall be conducted during winter months when feasible and the necessary mitigative measures taken to minimize damage to vegetation and prevent erosion and sedimentation.

(bb) Construct at times when local fish and wildlife are not spawning or nesting.

(cc) Effective erosion and sedimentation control programs shall be conducted during all clearing, construction, or reconstruction operations in order to prevent the degradation of the river and adjacent lands.

(4) Safety Considerations

Applicants must adhere to applicable federal and state safety regulations, both with regard to prevention (such as safety valves and circuit breakers) and with regard to emergency procedures in the event of failure (fire suppression, oil spill cleanup).

(5) Right-of-Way Maintenance
(aa) If possible, natural vegetation of value to fish or wildlife, and which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way.

(bb) Where vegetation has been removed, suitable vegetation consisting of native grasses, herbs, shrubs, and trees, should be planted and maintained on the right-of-way if natural revegetation has not occurred within two years after construction.

(cc) Chemical control of vegetation is discouraged but where such methods are justified, chemicals used and the manner of their use must be in accordance with rules, regulations and other requirements of all state and federal agencies with authority over the use.

Section 12 — Public Roads, River Crossings

1. It is essential to regulate the construction of new public roads and reconstruction of existing public roads within the Mississippi River Zoning District in order to provide maximum protection and preservation of the natural environment and to minimize any adverse effects which may result from such development. These standards provide a basic framework of considerations for review of proposed road construction.

2. A permit as established in Minnesota Statutes Section 105.42, is required from the Commissioner of Natural Resources for the construction or reconstruction, removal, or abandonment of any road or railroad crossing, of a public water.

3. In addition to road construction or reconstruction standards required by state and federal authorities, a conditional use permit from the , Minnesota zoning authority shall be required.

4. Public roads as defined herein and subject to the standards and criteria in this section of this ordinance include county, county-state aid highways, municipal roads and highways which serve, or are designed to serve, traffic between communities or other traffic areas.

5. A conditional use permit is not required for minor public streets which are intended to serve as access to abutting properties.

6. For each consideration listed below, the applicant shall indicate how he is satisfying the consideration where applicable, or if he is not, why not. In dealing with route design considerations, the applicant must, where applicable, also supply data on relevant site conditions. The county zoning authority shall issue a conditional use permit if the applicant shows he has satisfied to the extent feasible, these considerations.

a. Route Design

(1) Avoid steep slopes.

(2) Avoid intrusion into stream valleys and open exposures of water.

(3) Avoid scenic intrusion by avoiding ridge crests and high points.

With regard to location:

(4) Avoid new public road routing within 200 feet of Mississippi River.

With regard to vegetation:

(5) Avoid wetlands.

(6) Run along fringes of forests rather than through them. But if it is necessary to route through forests, then utilize open areas in order to minimize destruction of forest areas.

With regard to soil characteristics

(7) Avoid soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction.

(8) Avoid areas of plastic soils which would be subject to extensive slippage.

(9) Avoid areas with high water tables, especially if construction requires excavation.

With regard to crossing of public waters

(10) A permit from the Commissioner of Natural Resources is required as established in Minnesota Statutes Section 105.42 for a road or railroad crossing, or reconstruction, removal, or abandonment of any existing road or railroad crossing, of a public water.

With regard to open space recreation areas

(11) Avoid them whenever practicable.

b. Construction Methods

(1) Construct new roads so they rest as "lightly on the land" as feasible, avoiding cuts and fills so as to blend into the natural terrain so that it appears to be a part of the natural landscape.

(2) Reconstruction of an existing public road or railroad should be performed in a manner that would minimize any adverse effect of the natural beauty and environment of the river.

(3) Effective erosion and sedimentation control programs shall be conducted during all clearing, construction, or reconstruction operations in order to prevent the degradation of the river and its adjacent lands.

(4) Avoid wetlands. But, if necessary and if approved by a permit from the Commissioner of Natural Resources as required by Minnesota Statutes Section 105, construct across wetlands in such a manner which minimizes damage to vegetation, and in a manner so as to minimize erosion and sedimentation.

(5) Construct bridges and place culverts in a manner which does not isolate wetlands nor impair natural drainage.

(6) Construct at times when local fish and wildlife are not spawning or nesting.

c. Safety Considerations

Applicants must adhere to applicable federal and state safety regulations with regard to new road construction or reconstruction of an existing road.

d. Right-of-Way Maintenance

(1) If possible, natural vegetation of value to fish or wildlife, and which does not pose a safety hazard, shall be allowed to grow in the roadside right of way.

(2) Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees should be planted and maintained on the roadside right of way.

(3) Chemical control of vegetation is discouraged. But where such methods are justified, chemicals used and the manner of their use must be in accordance with rules, regulations and other requirements of all state and federal agencies with authority over their use.

Section 13 – Subdivision

1. No land shall be subdivided which is determined by the county local authorities, or upon recommendation by the Commissioner of Natural Resources to be unsuitable by reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential unfavorable topography, inadequate water supply or sewage treatment capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or the community.

2. The provisions otherwise set forth in this ordinance and in other applicable local ordinances shall apply to all plats, except Planned Cluster Development.

3. Copies of all proposed plats within the Mississippi River and headwaters lakes zoning districts shall be submitted to the Commissioner of Natural Resources for review at least thirty (30) days prior to the approval or disapproval of such plats by the governing body so as to enable the Commissioner to advise the governing body on the suitability of the land for such subdivisions.

4. For planned cluster developments the following standards will apply, in addition to any applicable provisions of the County Zoning Ordinance.

a. A planned cluster development may be allowed only when the proposed clustering provides a better means of preserving agricultural land, open space, woods, scenic views, wetlands, and other features of the natural environment than traditional subdivision development.

b. Except for minimum setbacks and height limits, altered dimensional standards may be allowed as exceptions to this ordinance for planned cluster developments provided:

(1) Preliminary plans are reviewed by the Mississippi Headwaters Board as provided in Section 15 of this ordinance and are approved by the Commissioner of Natural Resources prior to their enactment by

(2) Central sewage facilities are installed which meet the standards, criteria, rules or regulations of the Minnesota Department of Health and the Pollution Control Agency.

(3) Open space is preserved. This may be accomplished through the use of restrictive deed convenants, public dedications, granting of scenic easements, or other methods.

(4) There is not more than one centralized boat launching facility for each cluster.

(5) The density of such planned cluster development shall not exceed two dwelling units per five (5) acres.

Section 14 – Administration

1. Authority

a. The provisions of this ordinance shall be administered by the designated authority.

b. The Board of Adjustment of Minnesota shall act upon all questions as they arise in the administration of this ordinance, to hear and decide appeals and applications for variances, and to review any order, requirements, decisions, or determination made by the Zoning Authority, who is charged with enforcing this ordinance in the manner prescribed by Minnesota Statutes Chapter 394, as amended.

c. Permit fees and inspection fees as may be established by resolution of Minnesota shall be collected by the Zoning Authority for deposit with and credited to the appropriate fund.

2. Nonconforming Uses, Substandard Uses

a. Nonconforming uses. Uses nonpermitted by this ordinance but which are in existence prior to the effective date of this ordinance shall be nonconforming uses. Such uses may be continued but shall not be intensified, enlarged, or expanded beyond the permitted or delineated boundaries of the use of the activity as stipulated in the most current permit issued prior to the adoption of this ordinance.

b. Such use shall not be changed to another nonconforming use or be reestablished if discontinued for a continuous twelve (12) month period. The County Assessor shall notify the Zoning Officer in writing of instances of nonconforming uses which have been discontinued for a continuous twelve month period.

c. If a nonconforming structure is destroyed by any cause, to an extent exceeding fifty percent of its fair market value as indicated by the records of the County Assessor, a future structure or use of the site shall conform to this ordinance.

d. Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use.

e. Substandard uses. All uses in existence prior to the effective date of enactment or amendment of this ordinance which are permitted or conditional uses within the Mississippi River zoning district(s), but do not meet the minimum lot area, setbacks or other dimensional requirements of this ordinance are substandard uses and shall be allowed to continue provided that any structural alteration or addition to a substandard use which will increase the substandard dimensions shall not be allowed.

3. Conditional Uses
   a. Prior to the granting of a conditional use permit by the planning commission the applicant must show how he/she has met the standards and criteria contained in this ordinance.
   b. The applicant for a conditional use permit which, in the opinion of the planning commission, may result in a material adverse effect on the environment may be requested by the board to demonstrate the nature and extent of the effect.
4. Variances
   a. The grant of a variance requires the presence of all the following conditions:
      (1) The strict enforcement of county zoning controls will result in unnecessary hardship. "Hardship" as used in connection with granting of a variance means that the property in question cannot be put to a reasonable use under the conditions allowed by the zoning provisions. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the ordinance.
      (2) Granting of the variance is not contrary to the purpose and intent of the zoning provision contained within the Upper Mississippi River Management Plan, its standards and criteria, and is consistent with the policies adopted by the Mississippi Headwaters Board.
      (3) There are exceptional circumstances unique to the subject property which were not created by the landowner.
      (4) Granting of the variance shall not allow any use which is neither a permitted or conditional use within the zoning district established in the Upper Mississippi River Management Plan, in which the subject property is located.
      (5) Granting of the variance will not alter the essential character of the zoning district(s) established in the Upper Mississippi River Management Plan.
   b. The applicant for a variance which, in the opinion of the board of adjustment, may result in a material adverse effect on the environment may be requested by the board to demonstrate the nature and extent of the effect.
   c. All variances to the requirements of this ordinance must be reviewed in accordance with Section 15 of this ordinance.
5. Inconsistent Plats
   a. Inconsistent Plats. Approval of a plat which is inconsistent with this ordinance is permissible only if the detrimental impact of the inconsistency is more than overcome by other protective characteristics of the proposal.
   b. All inconsistent plats approved by the must be reviewed in accordance with Section 15 of this ordinance.
6. Amendments
   a. This ordinance may be amended whenever the public necessity and the general welfare require such amendments by the procedure specified in this section. Amendments to this ordinance must be reviewed by the Mississippi Headwaters Board as specified in Section 15 of this ordinance.
   b. Requests for amendments of this ordinance shall be initiated by a petition of the owner or owners of the actual property, or by action of Minnesota.
   c. An application for an amendment shall be filed with the county zoning authority.
   d. Upon receipt of the application and other requested materials, the authority shall conduct a public hearing in the manner prescribed by Minnesota Statutes.
   e. Following the public hearing, the county authority shall make a report of its recommendations on the proposed amendment and shall file a copy with within sixty (60) days after the hearing. Mississippi Headwaters Board review must be obtained as specified in Section 15 before the proposed amendment becomes effective.
   f. To defray the administrative costs of processing requests for an amendment to this ordinance, a fee not exceeding administrative costs shall be paid by the petitioners, such fee shall be determined by the Board of Commissioners.

Section 15 – Review Procedures

1. Applicability
   a. In order to ensure that the standards here are not nullified by unjustified exceptions and particular cases, and to promote uniformity in the treatment of applications for such exceptions review procedures hereby established for certain decisions consist of those which (1) directly affect the use of land within the Mississippi Headwaters Board designated zoning district boundary or (2) includes one of the following types of action:
      (1) Adopting or amending an ordinance regulating the use of land, including rezoning particular tracts of land.
      (2) Granting a variance from a provision of the local land use ordinance which relates to the zoning dimension provisions of the Mississippi Headwaters Board plan or any zoning dimension provisions established in this plan.
      (3) Approving a plat which is inconsistent with the local land use ordinance adopted under the Mississippi Headwaters Board plan.
   b. No such local action shall be effective until the Mississippi Headwaters Board has reviewed and submitted comments to the respective county.
2. Procedures
   a. A copy of all notices of any public hearings, or where a public hearing is not required, a copy of the application to consider zoning amendments, variances, or inconsistent plats under the local ordinance shall be sent to the Mississippi Headwaters Board for review.
      (1) A copy of such applications shall be sent to the Mississippi Headwaters Board for their review at least thirty (30) days prior to the hearings or meetings to decide on such applications.
      (2) The Mississippi Headwaters Board shall review such applications to determine their consistency with the county zoning ordinance and their impact on the overall essential character of the River area, and the Board shall develop findings and recommend the approval, with or without conditions, or the nonapproval of these applications.
      (3) The Mississippi Headwaters Board shall report its findings and recommendations to the appropriate county within twenty-one (21) days from the date of application from said local governments.
      (4) The counties shall notify the Mississippi Headwaters Board within ten (10) days regarding the final action taken on these applications.
      (5) Copies of all final plats within the zoning district boundaries shall be forwarded to the Commissioner within ten (10) days of approval by the respective county.

Section 16 – Enforcement

1. It is declared unlawful for any person to violate any of the terms and provisions of this ordinance. Violation thereof shall be a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense.
2. In the event of a violation or a threatened violation of this ordinance, or the Mississippi Headwaters Board, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, or abate such violations or threatened violations.
3. Any taxpayer or taxpayer of may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this ordinance.
4. This ordinance shall have full force and effect from and after its passage, approval, and publication by law.

Section 17 – Classifications, Headwaters Lakes Standards

a. Zoning Classifications (by river segment)

Description	**Classification***
from Lake Itasca to river mile 47	1
from river mile 47 to Bemidji	2
from outlet of Lake Bemidji to Allen's Bay	2
from outlet of Cass Lake to Lake Winnibigoshish	2
from outlet of Lake Winnibigoshish to Bass Brook Twp.	2
from Grand Rapids to Itasca-Aitkin Co. line	2
from Itasca-Aitkin Co. line to City of Aitkin	2
from City of Aitkin to slack pool above Brainerd dam	2
slack pool above Brainerd dam	2
from Little Falls to southern Boundary of Morrison County	2

*Does not include incorporated areas of headwaters lakes.

b. Minimum Zoning Standards for Headwaters Lakes**

(1) For Lakes Irving, Bemidji, Stump, Cass, and Winnibigoshish which are presently classified as GD (General Development) lakes under existing shoreland ordinances, the following minimum zoning standards shall apply:

Shoreland Zoning District Depth	1,300 ft.
Minimum lot size	30,000 sq. ft.
Building setback (from OHWM)	100 ft.
Sewage system setback (from OHWM)	75 ft.
Vegetative cutting regulations	Same as county shoreland ordinance
Minimum lot width at the building line and water line (OHWM)	100 ft.

(2) For lakes Wolf, Andrusia, and Little Winnibigoshish, which are presently classified as RD or RD-2 lakes under existing shoreland ordinances, the existing standard shall apply where more protective than the above standards, except that the shoreland zoning district depth shall be 1300 feet.

** The above zoning standards do not apply to incorporated areas.

(3) The above classifications and minimum zoning standards shall apply only to those Mississippi River or headwaters lakes zoning districts designated in this ordinance that are within the jurisdiction of County.

Proposed Ordinance Review & Certification Procedure

The MHB intends to seek authorship and passage of legislation which would, among other things, vest the Board with the authority to review and certify certain county zoning decisions.

This certification procedure would apply to those decisions which, if arbitrarily made, would have the effect of negating the purpose, goals and intent of the plan to provide meaningful river protection.

Because such enabling legislation has not yet been passed, this procedure has not been incorporated into the model ordinance. Rather, it would be adopted as an amendment to the ordinance by the counties after enactment. The specific certification procedure would amend Section 15 of the ordinance.

If such enabling state legislation is passed, Section 15 of the proposed model ordinance would be amended as follows:

Section 15 – Review and Certification Procedures

1. Applicability

a. In order to ensure the standards here are not nullified by unjustified exceptions and particular cases, and to promote uniformity in the treatment of applications for such exceptions, review and certification procedures hereby established for certain decisions consist of those which (1) directly affect the use of land within the Mississippi Headwaters Board designated zoning district boundary or (2) includes one of the following types of action:

1. Adopting or amending an ordinance regulating the use of land, including rezoning particular tracts of land.
2. Granting a variance from a provision of the local land use ordinance which relates to the zoning dimension provisions of the Mississippi Headwaters Board plan or any zoning dimension provisions established in this plan.
3. Approving a plat which is inconsistent with the local land use ordinance adopted under the Mississippi Headwaters Board plan.

b. The land use ordinance or amendment must comply with the policy of the joint powers board agreement and the management plan prepared pursuant to the authority contained in M.S.A. 471.59.

c. No such local action shall be effective until the Mississippi Headwaters Board has reviewed and certified such actions.

2. Procedures

a. A copy of all notices of any public hearings, or where a public hearing is not required, a copy of the application to consider zoning amendments, variances, or inconsistent plats under the local ordinance shall be received by the MHB at least thirty (30) days prior to such hearings or meetings to consider such actions. The notice or application shall include a copy of the proposed ordinance or amendment, or a copy of the proposed inconsistent plats, or a description of the requested variance.

b. The local authority shall notify the MHB of its final decision on the proposed action, within 10 days of the decision.

c. The MHB shall, no later than 20 days from the time they receive notice of the final decision, communicate to the local authority either:

1. Certification of approval, with or without conditions; or
2. Notice of non-approval.

d. The action becomes effective when and only when either:

1. The final decision taken by the county has previously received certification of approval from the MHB; or
2. The county receives certification of approval after its final decision; or
3. Twenty days have elapsed from the day the MHB received notice of the final decision, and the county has received from the MHB neither certification of approval nor notice of nonapproval; or
4. The MHB certifies their approval after conducting a public hearing.

e. In the case of notice of nonapproval of an ordinance or a variance or an inconsistent plat, either the applicant, or the chief executive officer of the county may, within 30 days of said notice, file with the MHB a demand for hearing. If the demand for hearing is not made within the 30 days, the notice of nonapproval becomes final. Also:

1. The hearing shall be held in the county seat of the county to which the action applies, within 60 days of the demand for it but not before 2 weeks published notice. Notice and the conduct of the hearing and the allocation of costs of the hearing shall be accomplished in the same manner as provided in Minnesota Stats. 105.44, subdivisions 5 and 6 (1971) as amended.
2. Within 30 days after the hearing, the MHB shall either certify their approval of the proposed action, or deny it. Their decision shall be based upon findings of fact made on substantial evidence found in the hearing record.

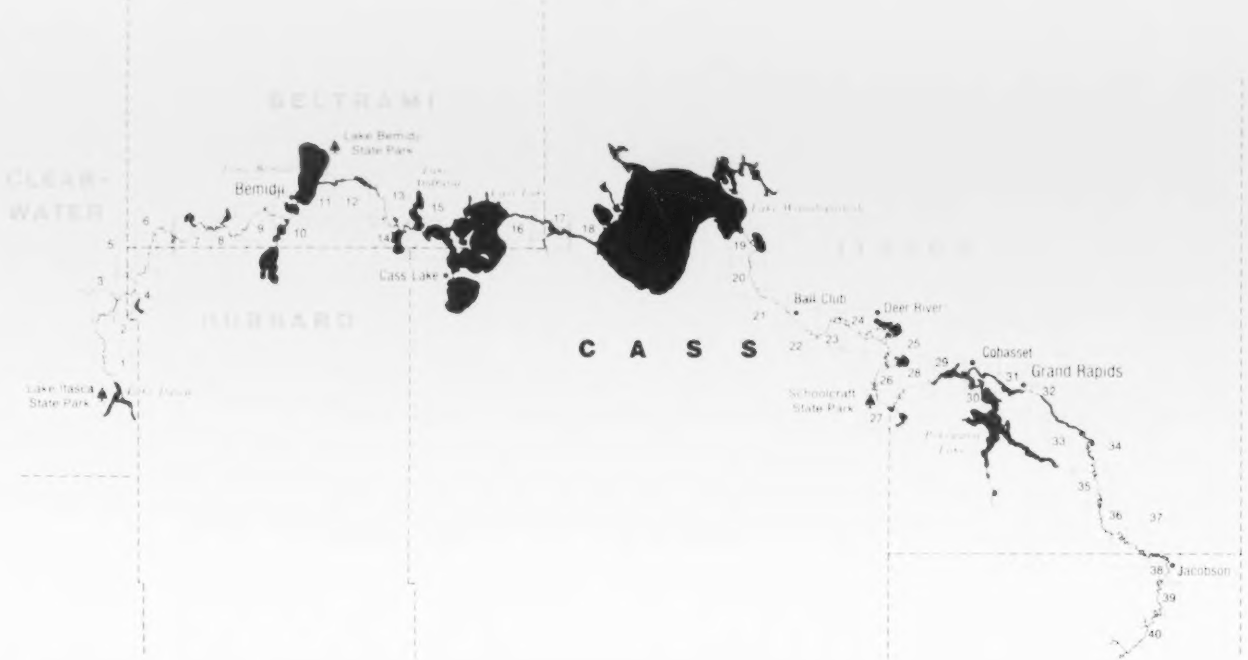
f. Copies of all plats within the zoning district boundaries shall be forwarded to the Commissioner within ten (10) days of approval by the respective county.

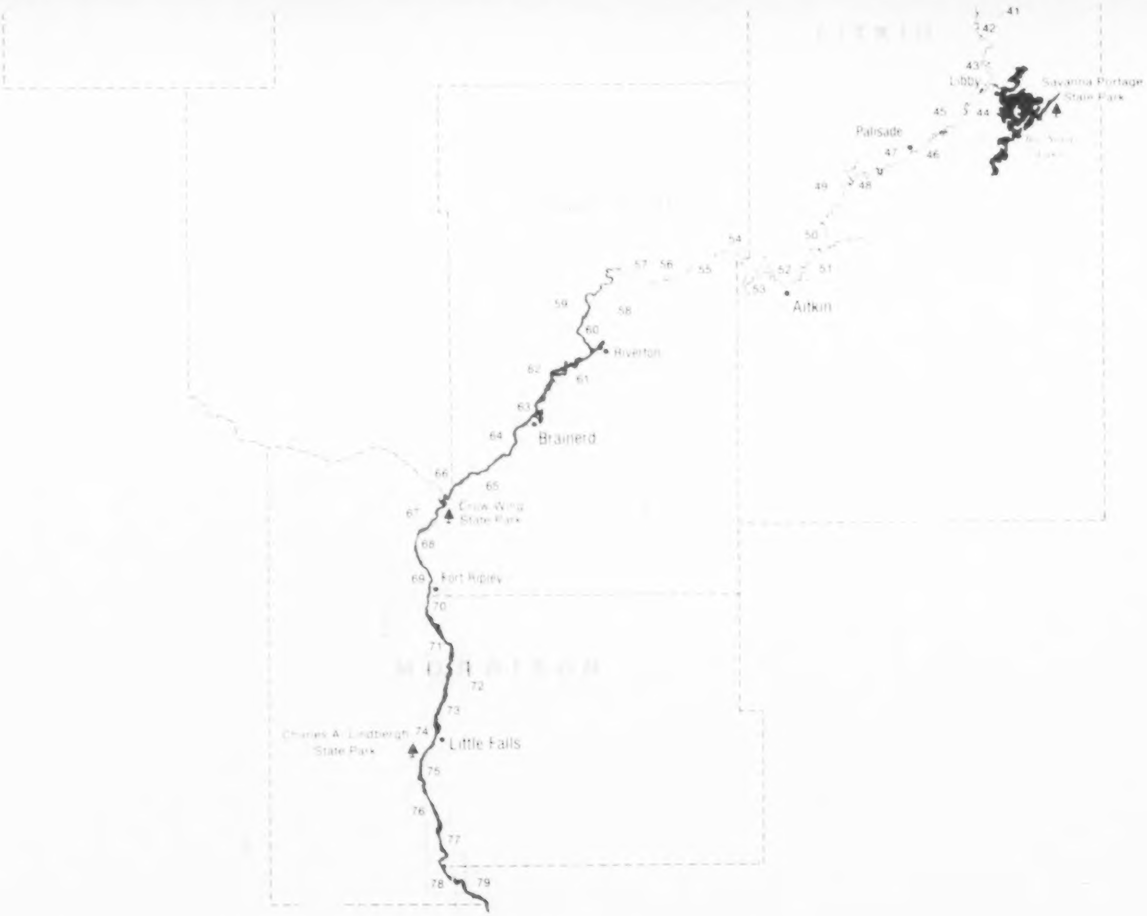
This procedure is virtually the same as that contained in Minn. Regs. NR81, except that the certification procedure itself rests with the Mississippi Headwaters Board, rather than the Commissioner of Natural Resources. Also, the MHB review and notice period is twenty (20) days rather than the thirty (30) days allowed the DNR Commissioner under NR81.

We used this procedure for the MHB because it provides a logical and timely process for review and certification.

A Management Plan For The Upper Mississippi River

MAPS*





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*The individual maps contained in this publication may be found in the files of the subcommittee.

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Photos courtesy of the photo libraries of the Minnesota Historical Society and the Minnesota Department of Natural Resources.

Much additional information and data was furnished from the publications, records and files of Aitkin, Beltrami, Cass, Clearwater, Crow Wing, Hubbard, Itasca, and Morrison counties.

Wisconsin Valley Improvement Co. Enabling Act

The Wisconsin Valley Company's legislative authority was revised and codified for inclusion in the statutes by the state legislature in 1979. Although Chapter 335, laws of 1907, as amended, was further amended and rearranged to reflect current statutory drafting practices, there was no substantive changes in the law.

The updated version of the law was developed through several drafts by legislative council committees and subcommittees. It was finally introduced for legislative action as 1979 Assembly Bill 458 and was approved as part of Chapter 90, Laws of 1979. Its effective date is December 9, 1979. The new version is located in Chapter 182.70, Wisconsin Statutes.

CHAPTER 90, LAWS OF 1979

Section 19. Chapter 335, laws of 1907, as amended, revised and consolidated by chapter 497, laws of 1939, and subsequently amended by chapter 54, laws of 1969, is renumbered 182.70 of the statutes and amended to read:

182.70. Wisconsin Valley Improvement Company.

(1) Definitions. In this section:

(a) "Company" means the Wisconsin Valley Improvement Company, its successors and assigns.

(b) "Capital invested" means capital actually paid in and the par value of all negotiable bonds or other obligations issued by the company.

(c) "Commission" means the public service commission.

(d) "Department" means the department of natural resources.

(2) Purpose of the Company. (a) The company shall produce as nearly a uniform flow of water as practicable in the Wisconsin and Tomahawk rivers by storing in reservoirs surplus water for discharge when the water supply is low to improve the usefulness of the rivers for all public purposes and to reduce flood damage.

(b) If maintaining uniform flow in the Wisconsin river below and above the north line of Lincoln county at the same time is impracticable, the company shall give preference to maintaining uniform flow in portions of the river above this line.

(3) Rights, Powers and Authority. Subject to chs. 30 and 31:

(a) 1. The company may create, acquire or lease an entire reservoir project or otherwise maintain, operate or control a system of water reservoirs located in or along the Wisconsin river. These reservoirs shall be located north of township 37 north in or along the Wisconsin river, and in or along any tributary of the Wisconsin river that discharges into the river at any point north of the south line of township 23 north. The company may create, acquire, maintain and operate waterways to divert flood waters from or to the Wisconsin river to or from reservoirs on other rivers. Diversion of flood waters shall be subject to approval by the department. The company may construct, acquire and maintain dams, booms and other structures in, along or across this portion of the Wisconsin river and its tributaries to accomplish the purposes of this section. The company may clean out, straighten, deepen or otherwise improve any tributary to improve navigation of the tributary or of the Wisconsin river, or to prevent injury to property bordering on the rivers.

2. The company may not exercise the authority granted in subd. 1 on that part of the Eagle river and lakes lying between the point where the Eagle river enters Cranberry lake, in Section 31, Township 40 north, range 11 East, and the Wisconsin river.

(b) 1. All franchise, other than corporate franchises, and all riparian rights and rights of flowage acquired by purchase or grant by any person or by any corporation organized to improve the navigation of the Wisconsin or Tomahawk rivers, or any of their tributaries may be assigned to the company.

2. Subdivision I shall not amend or repeal chapter 532, laws of 1887, chapter 252, laws of 1889, chapter 483, laws of 1905, Chapter 26, laws of 1903, or any amendment to those chapters. The company may not exercise eminent domain over any property used under those chapters, nor any other property devoted to public uses except as authorized in pars. (c) and (f).

(c) The dam authorized by chapter 532, laws of 1887, may be raised, or a new dam or dams may be constructed and maintained, in the Eagle River between Long and Cranberry lakes in townships 39 and 40 north, range 11 east, to raise the water in Long lake 6 inches higher than the high water mark established by the dam authorized by chapter 532, Laws of 1887. Between May 1 and the succeeding November 1 the waters shall not be drawn down in Long lake more than 18 inches below the high water mark. The company shall maintain the navigability of Eagle river between Long and Cranberry lakes for boats up to 50 feet in length with 12-foot beam and drawing 5 feet of water. If the construction, maintenance or operation of the new dam or dams requires the removal of the dam maintained under chapter 532, laws of 1887, or impairs the use of the dam or its appurtenances as a bridge across the Eagle river, the company shall either:

1. Provide a suitable bridge for H 15 loading, as provided in the standard specifications for highway bridges, adopted by the American association of state highway and transportation officials (1977), with suitable approaches, for safe and convenient passage over the new dam, or if more than one dam is built, over the dam nearest to the dam maintained under chapter 532, laws of 1887; or

2. ~~At its election~~ provide a suitable new bridge and approaches across the river at a point that will conveniently connect with the highway crossing the river.

(d) The company may collect uniform tolls for the passage of boats over the dam the company builds under par. (c), proportioned to the size of the boat. The total fees collected may not exceed the cost of the care, maintenance and operation of the means of passage.

(e) The company may acquire by condemnation any property, interest in property or other right necessary to create, maintain or operate any reservoir, dam or other improvement, if the property cannot be purchased at an agreed price.

(f) The commission shall appraise the damage caused by a taking or overflow of state lands occurring under this section. The company shall pay the amount appraised to the state treasury.

(4) PRIVATE REMEDIES. Any owner whose premises or access to the premises are injured by being divided, surrounded by water, flooded or waterlogged, or whose natural drainage is destroyed or injured by any dam or other construction built or operated by the company, may sue for damages or an injunction in the circuit court for the county where some part of the damaged lands are located. The injured party may choose a trial by jury.

(5) TOLLS. (a) If the company improves any navigable tributary of the Wisconsin river, except that part of the Eagle river designated in sub. (3)(a)2, or acquires the improvements or control of the improvements of any river improvement company already operating on these tributaries, and operates the works to allow the driving of logs and other floatables to the mouth of the tributary, the company:

1. May charge uniform tolls for floatables driven on the tributary; and

2. Shall have all of the rights and remedies granted to river improvement companies by law.

(b) If the company operates reservoirs under this section capable of storing and discharging 2 billion cubic feet of water that would not be naturally stored, it may charge uniform tolls to the owners, lessees or operators of every improved and operated water power located upon the Wisconsin river or any of its tributaries below any of these reservoirs and benefitted by the operation of these reservoirs. The sum of the tolls may not exceed the reasonable costs of operation and maintenance, including taxes and depreciation, plus a net return not exceeding 7 percent on the capital invested and a reasonable allowance for working capital. The tolls shall be a first lien, subject only to taxes, on the water power, dam, franchise and flowage rights of the person or corporation charged with the tolls.

The company may sue to enforce the lien or for sale of the encumbered property.

(c) The commission shall fix the tolls semiannually in proportion to the benefits received from the reservoir system by each improved and operated water power. A water power liable to tolls and operated 2 months or more during a 6-month toll period shall be subject to tolls for the entire period. A water power operating for less than 2 months during a 6-month period shall not be subject to a toll. The company shall employ hydraulic engineers to assist the company and the commission in determining the tolls to be charged. The expense of employing the engineers shall be a part of the cost of maintenance and operation of the works.

(d) The owners or operators of the improved water power shall pay tolls charged under this subsection, unless the improved water power is operated by lessees under a contract made prior to October 6, 1939. In that case the lessees shall pay the tolls.

(e) The commission shall provide notice and a hearing, in accordance with §227.07, to each water power operator to be charged with tolls. The commission shall determine and certify the amount of the tolls to be collected from each water power operator for the period under consideration. The tolls shall then be due the company.

(6) JUDICIAL REVIEW. A party aggrieved by the determination of tolls to be collected may petition for a rehearing under §227.12. A person whose substantial interests

have been adversely affected by the commission's decision may seek judicial review under §§227.16 to 227.21, in the circuit court in the county where the property affected is located.

(7) Reports to the Commission. On or before June 30 and December 31 of each year, the company shall provide the commission with a statement showing:

(a) All expenditures made or necessary to be made for the 6-month period preceding the next July 1 or January 1. Expenditures itemized shall include maintenance, operation and depreciation of the reservoir systems.

(b) The location of each reservoir.

(c) All reports and data obtained from engineers employed to determine tolls charged.

(d) A recommendation of the amount of tolls necessary to pay the cost of maintenance, operation, taxes and depreciation, a net return not exceeding 7 percent on the capital invested, and a reasonable allowance for working capital, together with a recommendation on the apportionment of costs against the owners or operators of improved powers.

(e) Other information and statements the commission may require.

(8) Duties of the Department. The department shall mark the height to which any dam may raise the water level by permanent monuments and bench marks, shall supervise and control the times and extent of the drawing of the water from the reservoirs, and may compel the maintenance of all reservoirs established.

(9) Issue of Capital Stock and Secured Bonds Approved by the Commission. (a) The company may, after certification from the commission according to the procedures under §§ 184.03 and 184.04, issue bonds or other obligations secured by pledge, assignment, mortgage or trust deed of its property.

(b) The company may retire its secured obligations by issuing stock as payment.

(10) State Acquisition. This state shall have the right, whenever it may have the constitutional power, to take over to itself, and become the owner of all reservoirs and other works and property acquired by the company, under this section, by paying therefor the total capital invested, including outstanding bonds or other obligations of the company lawfully issued and outstanding, (computation to include outstanding bonds or other obligations and stock or stocks plus undistributed earned surplus) or the actual value of the physical properties so taken over, without any allowance for franchise or goodwill of the business; and if the actual value cannot be agreed upon by the state and the owner, then the same shall be determined by the commission.

[Note: The Wisconsin Valley Improvement Company was created by ch. 335, laws of 1907, for the purpose of building, maintaining and operating dams and reservoirs on the Wisconsin river and its tributaries. These improvements on the river serve to improve navigation, decrease the hazard of flooding and provide a uniform flow for all public purposes.

[Chapter 335, laws of 1907, as amended, is incorporated into the statutes and amended to reflect current statutory drafting practices without any intention of making substantive changes in the law.]

[Department of the Interior News Release, Nov. 30, 1981]

Watt Requested Review of Park Land Acquisition Policies Shows Past Failure of Interior to Communicate on Real Costs

National Park Service (NPS) land acquisition cost estimates—never formally communicated to the Congress—ranged from 60 to 400 percent above the figures actually used in legislative debate on the creation of new parks and park expansion, the Interior Department's Inspector General Richard Mulberry, said today.

A review of NPS land acquisition practices requested by Interior Secretary James Watt uncovered no evidence that the Service intentionally misrepresented land acquisition costs to the Congress, Mulberry said, but there is no evidence to show that these much higher estimates ever reached the Congress in time to be used in the debate prior to legislative action.

"As a result, there has been a commitment on the Government and the taxpayer to fund what turn out to be ballooning land costs," Mulberry said.

As an example, Mulberry noted that NPS prepared eight cost estimate prior to the establishment of Santa Monica Mountains National Recreation Area in California in November 1978. The Inspector General's review found no evidence that any of the estimates, ranging from $242 million to $675 million, reached the Congress which authorized the new park with a land acquisition ceiling of $155 million. The review could not determine the basis for the $155 million legislative authorization by the Congress, Mulberry said, which was nearly 400 percent below the highest NPS estimate.

Mulberry said his staff reviewed land acquisition cost estimating practices at four national parks or recreation areas after Interior Secretary James Watt had received complaints from affected landowners and other citizens. Companion reviews of park boundary problems and the treatment of landowners will be completed early next year, he said.

In November 1978, the Congress authorized $29 million for expansion of the boundaries at Cuyahoga Valley National Recreation Area in Ohio, based on NPS estimates. However, the Park Service did not inform Congress at that time that it anticipated significant cost overruns for land acquisition within the existing boundaries. All but $9 million of the new authorization was used to pay for land within the pre-November 1978 park boundaries. The Park Service now estimates that it will take a total of $166.1 million to purchase all the authorized lands or $96 million more than the current land acquisition ceiling of $70.1 million.

In addition to the parks mentioned above, the review covered Koloko-Honokohau National Historical Park in Hawaii and Lassen Volcanic National Park in California because of similar problems of inadequate land cost estimates reported there.

Although the review initially included Sleeping Bear Dunes National Lakeshore in Michigan, Indiana Dunes National Lakeshore in Indiana, and Fire Island National Seashore in New York, detailed reviews were not conducted at those parks because they were established more than 10 years ago and the information gathered would not represent current NPS practice, Mulberry said.

The review provides NPS with recommendations on how to improve cost estimate practices to make them a more useful and realistic tool for Congressional use, he said. A NPS official said the Service generally agreed with most of the review's recommendations and will proceed to take corrective action.

[November 14, 1979]

Burton Optimistic About Acquiring Sweeney Ridge

Representative Phil Burton said this week he's very optimistic that Sweeney Ridge can eventually become a part of the Golden Gate National Recreation Area.

Burton said that failure of the Interior Department to recommend Sweeney Ridge for inclusion in the national park system "won't have any impact at all on my committee and I don't think on the House."

The San Francisco Democrat said he simply "didn't take very seriously" a report to Congress last month from Secretary of Interior Cecil Andrus that held Sweeney Ridge did not meet criteria for federal acquisition.

Andrus submitted a list of areas which the National Park Service judged to be potential park lands; it specifically did not include Sweeney Ridge, which had been the subject of a feasibility study.

Burton, chairman of the House subcommittee on parks, said he'd heard about the report "second hand . . . it didn't make much of an impact. I didn't take it very seriously." He added that "three fourths of the parks bill" which passed recently didn't have the recommendation of the park service and the Interior Department.

When the letter from Andrus went to House Speaker Tip O'Neill, the director of legislation for the park service, Peter Gove, commented to the Tribune that the opinion of the professional staff was not binding on Congress. He suggested that Representative Burton could be expected to use his recognized political influence to win committee and House approval of the acquisition of Sweeney Ridge to the GGNRA area. The Golden Gate area now extends from the north to a point just seven miles north of Sweeney Ridge; it is something less than "national park" status and would not necessarily include any roads or major public improvements.

Burton would venture no prediction on when—or precisely in what shape—the proposed attachment to the GGNRA might occur. He has before Congress a resolution proposing simply that Sweeney Ridge become a part of the GGNRA.

Approval of funding for various GGNRA and similar projects may require more time than originally hoped for, Burton said, but "I am completely optimistic about Sweeney Ridge being approved by my committee and optimistic about the House . . . the question is in what form and when."

"The Secretary of Interior's recommendation won't have any impact at all on my committee and I don't think on the House." he said.

Burton's response to the Tribune's questions about his reaction to Secretary Andrus' recommendations included the firmest public comment he has made about his thinking on Sweeney Ridge. During a public hearing by his subcommittee in Pacifica last July he was more reserved in his predictions.

State of Minnesota: Seventy-Second Session

S.F. NO. 2 (SUBSTITUTED FOR H.F. 510)

Introduced by Lessard; Willet; Moe, R. D.; Rued and Peterson, C. C.

Read First Time Apr. 2, 1981 and Referred to the Committee on Environment and Natural Resources.

Committee Recommendation and Adoption of Report: To Pass as Amended Apr. 24, 1981.

Read Second Time Apr. 24, 1981.

Unofficially Engrossed and Printed for the House to Include Committee Amendment of Apr. 24, 1981

A Bill for an Act relating to the Mississippi River headwaters area; establishing a joint board of counties to prepare, adopt and implement a comprehensive land use plan for the Mississippi River headwaters area; imposing a temporary moratorium on the use of certain lands subject to city land use controls; proposing new law coded as Minnesota Statutes, Chapter 114B.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [114B.01] [Purpose and Intent.]

The legislature finds that:

(a) The Mississippi River from its outlet at Lake Itasca, Clearwater County, to the southerly boundary of Morrison County, Minnesota, possesses outstanding and unique natural, scientific, historical, recreational and cultural values deserving of protection and enhancement;

(b) The counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison have entered into a joint powers agreement pursuant to law for the purpose of developing a plan for the protection and enhancement of the foregoing values; and

(c) The plan adopted by the counties pursuant to the joint powers agreement establishes guidelines and minimum standards for cooperative local management of this segment of the Mississippi River.

It is the intent of sections 1 to 7 to authorize and direct the joint board and the counties to implement this comprehensive plan for the Mississippi headwaters area.

Sec. 2. [114B.02] [Mississippi Headwaters Board.]

Subdivision 1. [Definitions.] For the purpose of sections 1 to 6, the following terms have the meanings given them in this subdivision unless the context clearly requires otherwise.

(a) [Board.] "Board" means the Mississippi headwaters board established pursuant to subdivision 2 of this section or those counties that have complied with section 8 of this act.

(b) [Counties.] "Counties" means the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison.

Subd. 2. [Establishment.] The Mississippi headwaters board established by the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison by agreement entered into on February 22, 1980, pursuant to section 471.59, is hereby established as a permanent board with authority to prepare, adopt and implement a comprehensive land use plan designed to protect and enhance the Mississippi River and related shoreland areas situated within the counties.

Subd. 3. [Membership; Terms; Vacancies.] The board shall consist of eight members. The governing body of each county shall appoint one of its members to serve on the board. The members appointed to the board and serving on the effective date of this section shall constitute the first board as provided in this subdivision. The term of a member serving on the board on the effective date of this section shall expire on the first Monday in January of 1983. Thereafter, the terms of board members shall be two years commencing on the first Monday in January of odd numbered years. Vacancies on the board shall be filled for the remainder of the term by the governing body that made the original appointment. The governing body of a county may designate another member of the governing body or a county officer to act as an alternate for the member appointed by that county.

Subd. 4. [Officers.] The board shall annually appoint from among its members a chairman, vice-chairman and secretary-treasurer who shall serve for concurrent one year terms.

The chairman shall preside over all meetings of the board and may call special meetings at reasonable times and upon adequate notice when necessary. The vice-chairman shall preside over the meetings of the board in the absence of the chairman. The secretary-treasurer or his designee shall keep a record of all proceedings of the board. The secretary-treasurer shall provide for the proper receipt and disbursement of funds.

Subd. 5. [Meetings.] The regular meetings of the board shall be held at times and places prescribed by it. A majority of all members of the board shall constitute a quorum and a majority vote of all members shall be required for actions taken by the board.

Sec. 3 [114B.03] [Comprehensive Plan.]

Subdivision 1. [Existing Plan Confirmed; Minimum Standards.] The comprehensive land use plan prepared by the board and approved by resolution adopted on February 12, 1981, shall be the comprehensive land use plan authorized by section 2, subdivision 2, and shall be implemented by the board as provided in this section and section 4. The counties shall adopt land use ordinances consistent with the comprehensive land use plan of the board. The standards set forth in the plan are the minimum standards which may be adopted by the board and by the counties for the protection and enhancement of the natural, scientific, historical, recreational and cultural values of the Mississippi River and related shoreland areas subject to the plan. Except for forest management, fish and wildlife habitat improvement and open space recreational uses as defined in the plan, no state or county lands within the boundaries established by the plan shall be offered for public sale or lease. The board may amend the plan in any way that does not reduce the minimum standards set forth in the plan approved on February 12, 1981.

Subd. 2. [Advisory Committees; hearings.] The board shall appoint advisory committees, representing a broad geographical area and diverse public interests, and conduct public meetings and hearings necessary to afford the public an opportunity to become fully informed of all deliberations in the preparation and implementation of the plan.

Subd. 3. [Governmental Agencies.] The board shall initiate and maintain contacts with governmental agencies as necessary to properly prepare the plan and shall negotiate cooperative management agreements with the United States forest service and bureau of land management and the state department of natural resources. The board, Beltrami, Cases, Hubbard, and Itasca Counties shall initiate and maintain contacts with the governing body of the Leech Lake Indian Reservation and shall negotiate a cooperative management and jurisdiction agreement with the reservation governing body on or before September 1, 1981.

Subd. 4. [Leech Lake Indian Reservation.] Sections 1 to 7 shall not be construed to alter or expand the zoning jurisdiction of the counties within the exterior boundaries of the Leech Lake Indian Reservation. The comprehensive plan of the board and the county ordinances adopted pursuant to section 3, subdivision 1, shall apply only to areas within the zoning jurisdiction of the counties as provided by law in effect prior to the enactment of sections 1 to 7.

Subd. 5. [Implementation.] The board shall develop and establish a schedule for implementation and common administration of the plan by the counties. The schedule shall be binding upon the counties subject to approval by the governing bodies of the respective counties.

Subd. 6. [Funds.] The board shall annually submit to each county for its approval an estimate of the funds it will need from that county in the next fiscal year to prepare and implement the plan and otherwise carry out the duties imposed upon it by sections 1 to 6. Each county shall, upon approval of the estimate by its governing body, furnish the necessary funds to the board. The board may apply for, receive and disburse federal, state and other grants and donations.

Subd. 7. [Contracts.] The board may employ staff and contract for goods and services as necessary to implement sections 1 to 6. Contracts are subject to the statutory procedures and restrictions applicable to county contracts.

Sec. 4. [114B.04] [Review and Certification of Land Use Actions.]

Subdivision 1. [Purpose.] In order to insure that the comprehensive land use plan prepared by the board is not nullified by unjustified exceptions in particular cases and to promote uniformity in the treatment of applications for exceptions, a review and certification procedure is established for the following categories of land use actions taken by the counties and directly or indirectly affecting land use within the area covered by the plan:

(a) The adoption or amendment of an ordinance regulating the use of land, including rezoning of particular tracts of land;

(b) The granting of a variance from provisions of the land use ordinance; and

(c) The approval of a plat which is inconsistent with the land use ordinance.

Subd. 2. [Certification.] Notwithstanding any provision of chapter 394 to the contrary no action of a type specified in subdivision 1, clauses (a) to (c) is effective until the board has reviewed the action and certified that it is consistent with the comprehensive plan of the board. In determining consistency of ordinances and ordinance amendments, the provisions of the comprehensive land use plan shall be considered minimum standards. An aggrieved person may appeal a decision of the type specified in subdivision 1, clauses (a) to (c) which is reviewed by the board under this section in the same manner as provided for review of a decision of a board of adjustment in section 394.27, subdivision 9, but only after the procedures prescribed under this section have been completed.

Subd. 3. [Procedure for Certification.] A copy of all notices of public hearings or, when a hearing is not required, a copy of the application to consider any actions of a type specified in subdivision 1, clauses (a) and (c) shall be forwarded to the board by the county at least 15 days prior to the hearing or meetings to consider the actions. The county shall notify the board of its final decision on the proposed action within ten days of the decision. No later than 30 days from the time it receives the notice, the board shall notify the county and the applicant of its approval or disapproval of the proposed action.

Subd. 4. [Disapproval of Actions; Hearing.] In the case of notice of disapproval issued by the board, either the county or the applicant may, within 30 days of notice, file with the board a demand for a hearing. If no demand is filed during that period, the disapproval becomes final. If a demand is filed during that period, a hearing shall be held within 60 days of demand and shall be preceded by two weeks published notice. Within 30 days after the hearing, the board shall either affirm its disapproval of the proposed action or certify its approval thereof.

Sec. 5. [114B.05] [Incorporation and Annexation.]

When land subject to the comprehensive land use plan of the board is annexed, incorporated or otherwise subjected to the land use planning authority of a home rule charter or statutory city, a moratorium shall exist on all subdivision platting and building permits on that land until zoning regulations are adopted for that land which comply with the provisions of the comprehensive plan of the board. The moratorium shall also apply to construction, grading and filling, and vegetative cutting as those activities are defined in the comprehensive plan. This section does not apply to work done pursuant to lawful permits issued before the land became subject to the land use planning authority of the city.

Sec. 6. [114B.06] [Biennial Report.]

During the first year of each biennial legislative session, the board shall prepare and present to the appropriate policy committees of the legislature a report concerning the actions of the board in exercising the authority granted by the legislature pursuant to sections 1 to 5. The report shall include an assessment of the effectiveness of the board's comprehensive land use plan and its implementation in protecting and enhancing the natural, scientific, historical, recreational and cultural values of the Mississippi River and related shorelands situated within the member counties.

Sec. 7. [114B.07] [Applicability.]

Sections 1 to 6 apply to the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison.

Sec. 8. [Effective Date.]

Sections 1 to 7 are effective upon approval by all the respective governing bodies of the counties of Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison, and upon compliance with Minnesota Statutes, Section 645.021, Subdivision 3. Sections 1 to 7 shall not be effective unless all of the counties approve and comply with Minnesota Statutes, Section 645,021, Subdivision 3, by September 1, 1981. In the event any of the counties shall fail to approve and comply with Minnesota Statutes, Section 645.021, Subdivision 3, that portion of the Mississippi River and related shoreland areas within the areas subject to the plan lying within such county shall be designated under Minnesota Statutes, Section 104.35, Subdivision 4, and shall be managed in accordance with the plan approved on February 12, 1981. The membership of the board shall consist of the remaining counties.

ACTIVITY: LCMR—UPPER MISSISSIPPI RIVER MANAGEMENT PROGRAM

Program: Mississippi Headwaters Board Program
Agency: Mississippi Headwaters Board

ACTIVITY DESCRIPTION

The Mississippi Headwaters Board (M.H.B.) was established in 1980 as a result of a joint powers agreement among 8 counties—Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing, and Morrison. The stated purpose of the M.H.B. was to formulate plans for the area under its jurisdiction, and to protect the Upper Mississippi River from uncontrolled and unplanned development through the preparation and adoption of a comprehensive management plan for the river and adjacent lands.

This management plan will provide for:

(1) Adoption of strong local zoning ordinances.

(2) Recreational use of the river and adjacent public lands.

(3) Donation, purchase, or exchange of critical lands in the public interest.

(4) Sound cooperative management of public lands along the river.

The 1981-83 L.C.M.R. request by the M.H.B. represents the necessary follow-through on an agreement between the M.H.B. and the National Park Service. The National Park Service, which had proposed designation of the Upper Mississippi in the National Wild and Scenic Rivers system, agreed to support the M.H.B. plan provided sufficient funding could be arranged to implement its provisions.

ACTIVITY OBJECTIVES

(1) To establish guidelines and minimum standards for cooperative local management of the upper 400 miles of the Mississippi River from Lake Itasca to the southernmost boundary of Morrison County.

(2) To undertake a sound resource management program to protect the river and adjacent lands from uncontrolled and unplanned development.

(3) To manage the river and adjacent lands so as to enhance its recreational, aesthetic, historic, archaeological, cultural, fish and wildlife and similar values.

(4) To provide consistent land use regulations along the upper 400 miles of the river through the adoption of comprehensive local zoning ordinances adopted by each of the 8 counties.

(5) To enter into cooperative management agreements with the Minnesota Department of Natural Resources, U.S. Forest Service, and Bureau of Land Management.

(6) To develop a cooperative agreement with the Leech Lake Indian Reservation.

(7) To establish the M.H.B. as the permanent joint powers agency responsible for cooperative management and protection of the Upper Mississippi River.

ACCOMPLISHMENTS AND PERFORMANCE INDICATORS

The M.H.B. has developed a comprehensive management plan including a description of the resource, management policies, and a specific model zoning ordinance. All 8 counties have adopted the new protective zoning regulations. The M.H.B. has initiated negotiations with the Leech Lake Reservation to discuss possible cooperative management of the river within the reservation. Discussions between the M.H.B. and the Minnesota Department of Natural Resources, U.S. Forest Service, and U.S. Bureau of Land Management regarding possible cooperative management agreements have also begun. Companion bills have been introduced in the 1981 Session which would provide review and certification authority to the M.H.B. over certain local zoning actions and establish it as a permanent board.

PERFORMANCE INDICATORS

Objective No. and Fiscal Year 1980 (to date)

1 and 2 Management plan: Completed and adopted.

3 Management: Contacts begun regarding historic and recreational sites for possible purchase and development.

4 Land Use Regulation: Comprehensive zoning ordinance adopted by all 8 counties.

5 and 6 Cooperative Management Agreements: Discussions initiated with Leech Lake Reservation and federal and state agencies.

7 Legislation: Bills introduced in state legislature; legislative hearing process begun.

ALTERNATIVES/MAJOR ISSUES

(1) In 1980 the National Park Service completed a "Conceptual" Management plan for the Upper Mississippi River which recommended inclusion of portions of the river in the National Wild and Scenic Rivers system as directed by President Carter. This plan called for administration of certain segments by the National Park Service in cooperation with state and other federal agencies. In the Fall of 1980 the U.S. Department of the Interior and the National Park Service agreed to put this plan "in abeyance" to allow for the successful implementation of the M.H.B. plan.

(2) The M.H.B. plan was prepared as an alternative to the conceptual plan developed by the National Park Service. The M.H.B. plan relies on cooperative local management between the 8 counties in the joint powers agreement, as well as cooperative agreements with state and federal agencies. The major management tools include comprehensive zoning ordinances administered by the counties; willing seller purchase, donation, or exchange of lands for management purposes; and cooperative management agreements. The M.H.B. is in the process of implementing its plan.

(3) The M.H.B. recognizes the substantial national interest of the Upper Mississippi River as reflected in the National Park Service study. The M.H.B. plan represents a voluntary cooperative effort on the part of local governments to accomplish the necessary and appropriate level of protection for such a valuable national resource without direct control and administration by federal agencies. Local interests believe that such an effort can result in strong protection measures at greatly reduced cost.

(4) In order to provide lasting management and protection, the M.H.B. is supporting legislation which would give it review and certification powers over certain local zoning decisions and establish it as a permanent board. This legislation was also recommended by the National Park Service.

(5) The M.H.B. recognizes the interests and responsibilities of state and federal agencies regarding management of the Mississippi River and adjacent lands. It hopes to enter into cooperative management agreements with these agencies as soon as possible.

(6) The M.H.B. also recognizes the concerns of the Leech Lake Reservation in regard to management of the river within the reservation. The M.H.B. hopes to negotiate a cooperative agreement with the Leech Lake Reservation for management of the river and adjacent land within the reservation.

(7) Public involvement will be essential in the successful implementation of the M.H.B. plan. The board intends to continue an advisory committee representing a variety of interests. The board also intends to retain staff necessary to maintain contact with the public as well as public agencies.

EXPLANATION OF BUDGET REQUEST

The 1981-83 L.C.M.R. request by the M.H.B. represents the necessary follow-through on the agreement between the Board and the National Park Service.

The 1981-83 budget request is for $174,750. These funds will be utilized to implement the plan prepared by the Board.

Primary use of funds will be to provide direct MHB staff—an executive secretary and support staff. Staff support are anticipated to be through contractual service.

The budget request also includes funds for the citizens advisory committee which will have broad representation of all affected interests both from within the eight county area and outside it.

It is anticipated that a member county will provide necessary office space for the board's staff.

Board expenses directly related to zoning review and approval, land exchanges, public hearings, and legal assistance are also provided for in the budget breakdown.

In addition to state funds requested, the participating counties will continue to provide necessary staff time on an as-needed basis. This budget request has been reviewed with appropriate state and federal agencies. It provides for M.H.B. staff support necessary to implement the various aspects of the Board's management plan.

A budget breakdown is provided below:

MISSISSIPPI HEADWATERS BOARD PROJECT ADMINISTRATION BUDGET, 1982–83

Description	Cost (fiscal years)	
	1982	1983
I. Board administration:		
(a) Advisory Committee (expenses travel, etc.)	$11,940	$13,670
(b) Office expenses (supplies, materials, etc.)	12,275	13,966
II. Staff support—3 positions:		
(a) Board executive secretary (including travel, expenses, etc.)	16,325	18,773
(b) Other staff support (including travel, expenses, etc.)	34,195	38,174
(c) Legal counsel	7,932	7,500
Total (biennial—$174,750)	82,667	92.083

MISSISSIPPI HEADWATERS BOARD PLAN IMPLEMENTATION: ESTIMATED COUNTY COSTS—BUDGET SUMMARY

	Clearwater		Hubbard		Beltrami		Cass		Itasca		Aitkin		Crow Wing		Morrison	
	1981	1982	1981	1982	1981	1982	1981	1982	1981	1982	1981	1982	1981	1982	1981	1982
I. Board administration	$1,057	$1,216	$1,057	$1,216	$1,057	$1,216	$1,057	$1,216	$1,057	$1,216	$1,057	$1,216	$1,057	$1,216	$1,057	$1,216
II. County planning	1,480	687	1,250	425	3,880	2,975	1,772	1,172	4,283	3,383	1,201	801	6,420	5,420	3,636	3,163
III. Recreation site development, acquisition, maintenance	0	0	0	0	2,250	2,250	0	0	3,500	3,500	750	750	2,500	2,500	1,500	1,500
IV. Land management	1,750	1,750	0	0	2,350	2,350	2,400	2,400	2,800	2,800	2,550	2,550	2,300	2,300	2,600	2,600
Total [1]	4,287	3,653	2,307	1,641	9,537	8,791	5,229	4,788	11,640	10,899	5,558	5,317	12,277	11,436	8,793	8,479

[1] Combined total—$114,632.

Note.—This table includes estimated county costs for each county over the 1981–83 biennium for plan implementation. In addition to these funds, the MHB financed plan preparation in calendar year 1980 solely through county and private funds. This amount was $58,550. Also, for the period of Jan. 1 through June 30, 1981, the MHB has also agreed on an interim budget of $24,500.